

Juergen Hoeser May 11, 2005

Page 1

VOLUME: I

PAGES: 1-116

EXHIBITS: 49-65

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

BRAUN GmbH,

Plaintiff,

v.

Civil Action

RAYOVAC CORPORATION,

No. 03-CV-12428-WGY

Defendant.

VIDEOTAPED DEPOSITION of JUERGEN HOESER

May 11, 2005

9:17 a.m.

DWYER & COLLORA, LLP

600 Atlantic Avenue

Boston, Massachusetts

EXHIBIT D

Reporter: Michael D. O'Connor, RPR

Juergen Hoesser May 11, 2005

Page 2		Page 4	
1 APPEARANCES:		1 EXHIBITS (Cont'd)	
2		2 No.	Page
3 ROPES & GRAY		3 59 English translation of Exhibit 58	73
4 By William L. Patton, Esq. and		4 60 Documents with Bates Nos. B002089 to	
5 Dalila Argaez Wendlandt, Esq.		5 B002095, with English translations	94
6 One International Place		6 61 U.S. Patent No. 5,711,328	73
7 Boston, Massachusetts 02110		7 62 U.S. Patent No. 5,649,556	73
8 (617)951-7884		8 63 Individuals who work for Mr. Hoesser	70
9 For the Plaintiff.		9 64 Document with Bates Nos. B6737 to	
10		10 B7102	101
11 KIRKLAND & ELLIS, LLP		11 65 Rayovac's translation, English translation	
12 By James A. Shimota, Esq.		12 of Exhibit 64	102
13 200 East Randolph Drive		13	
14 Chicago, Illinois 60601		14 (Mr. Shimota has retained the original exhibits)	
15 (312)861-2336		15	
16 For the Defendant.		16	
17		17	
18 Also Present: Lily Olm, Interpreter		18	
19 Jodi Urbati, Videographer		19	
20		20	
21		21	
22		22	
23		23	
24		24	
Page 3		Page 5	
1 INDEX		1 PROCEEDINGS	
2 Deposition of: Direct Cross		2	
3 JUERGEN HOESER		3 VIDEOGRAPHER: Here begins videotape number	
4 By Mr. Shimota 6		4 one in today's deposition of Juergen Hoesser in the	
5		5 matter of Braun versus Rayovac Corporation in the	
6 EXHIBITS		6 United States District Court for the District of	
7 No. Page		7 Massachusetts, Civil Action No. 03-CV-12428-WGY.	
8 49 Defendant's First Notice of Rule 30(b)(6)	54	8 Today's date is May 11, 2005. The time,	
9 Deposition 31		9 9:17 a.m. The videographer today is Jodi Urbati	
10 50 English version of Braun 1069 to 1073	54	10 contracted by LegalLink Boston. This deposition is	
11 51 German version of B1069 to 1076	54	11 taking place at Dwyer & Collora, and was noticed by	
12 52 Braun's Answers to Defendant's		12 James Shimota of Kirkland & Ellis.	
13 Interrogatories 71		13 Counsel, please voice identify yourselves	
14 53 Mr. Hoesser's notes, Bates No. B000861	71	14 and state whom you represent.	
15 54 English translation of Bates		15 MR. SHIMOTA: Jim Shimota, Kirkland &	
16 No. B000861 72		16 Ellis, appearing on behalf of Defendant Rayovac	
17 55 Bates No. B001064 72		17 Corporation.	
18 56 Document filed as an Exhibit B to the		18 MR. PATTON: Bill Patton of Ropes & Gray	
19 Declaration of Dietrich Pahl, which is		19 appearing on behalf of Braun.	
20 Entitled "R&D Shavers 'Future'" 72		20 VIDEOGRAPHER: Would all others present	
21 57 Documents bearing the Bates range B3074		21 please state their name for the record.	
22 to 3076 72		22 MS. WENDLANDT: Dalila Wendlandt, counsel	
23 58 Document bearing the Bates range B4615		23 for Braun GmbH.	
24 to B4617 73		24 INTERPRETER: Lily Olm, the interpreter.	

2 (Pages 2 to 5)

Juergen Hoerer May 11, 2005

Page 6

1 VIDEOGRAPHER: The court reporter today is
2 Michael O'Connor of LegalLink Boston. Would the
3 reporter please swear in the witness.

4
5 JUERGEN HOESER

6
7 having been satisfactorily identified by the
8 production of his driver's license, and duly sworn
9 by the Notary Public, was examined and testified as
10 follows:

11
12 DIRECT EXAMINATION

13 BY MR. SHIMOTA:

14 Q. Would you please state your name for the
15 record, sir.

16 A. My name is Juergen Hoerer.

17 Q. Would you also please provide your address?

18 A. The address is in Germany. It's
19 Pfarrdriesch 9B in Neu Anspach 61267.

20 Q. Before we begin, I'd just like to go over a
21 few bits of background for purposes of the
22 deposition. You understand that over the course of
23 today and perhaps tomorrow I will ask you questions,
24 and you will be expected or you will give me

Page 7

1 answers, correct?

2 A. Yes.

3 Q. And just to be clear, you must or you
4 should attempt to, when answering my questions,
5 provide an audible response as opposed to nodding
6 your head?

7 A. Okay, yes.

8 Q. And if at any point during the deposition
9 you do not understand a question, would you please
10 tell me?

11 A. Okay.

12 Q. If at any point during the deposition you
13 come to believe that a prior answer you had given
14 was either incomplete or inaccurate, would you tell
15 me that?

16 A. Okay.

17 Q. Is there any reason that you can think of
18 sitting here now that you are unable to answer my
19 questions truthfully and accurately today?

20 A. No.

21 Q. Would you describe for me -- let me see if
22 I can remember what the correct word would be --
23 would you describe for me your education following
24 what would be school for children?

Page 8

1 A. After the children's school, I did my
2 studying and I became a machine engineer. My
3 training was for an apprenticeship for toolmaker.

4 Q. Where did you do your apprenticeship for
5 tool making?

6 A. In Germany, with the company Sperry
7 Vickers. After the apprenticeship, I worked for a
8 half year as a mechanic in avionics. Then I went
9 back to school and I did my high school diploma
10 called abitur in Germany. This is high school. The
11 American high school would be equivalent to abitur
12 in Germany.

13 Q. Where did you study or where did you pursue
14 your high school studies?

15 A. I will give you the equivalence literally.
16 It's a professional high school, literal
17 translation.

18 Q. What was the name of the professional high
19 school?

20 A. Fachhochschule, Oberursel being the
21 location of the school.

22 Q. In what year did you perform your
23 apprenticeship for tool making?

24 A. From 1977 to 1980.

Page 9

1 Q. In your apprenticeship, did you focus on
2 the manufacture of any particular tools?

3 A. No. The apprenticeship was general in
4 character and it was geared to repair tools.

5 Q. What products did Sperry Vickers
6 manufacture?

7 INTERPRETER: I don't know the exact
8 translation. I will see with the witness whether my
9 interpretation of the tools is correct. He asked me
10 whether he should explain to me what it is. I know
11 what it is. I will give you the exact literal
12 translation of this word. It would be pumps to help
13 the steering.

14 A. Then the reinforcer for the brake
15 potential, the brake strengths. Sperry Vickers also
16 constructed steering equipment for military
17 aircrafts.

18 Q. In your tool-making apprenticeship, did you
19 have occasion to witness or work with any cleaning
20 processes?

21 A. Not really. The apprenticeship is such
22 that we are trained in general techniques. So we
23 are trained with working with the tools, such as
24 milling machines, vending machines, things like

3 (Pages 6 to 9)

Juergen Hoerster May 11, 2005

<p style="text-align: right;">Page 10</p> <p>1 that.</p> <p>2 Q. During the apprenticeship, were the tools</p> <p>3 that were made or used, were the tools ever cleaned?</p> <p>4 A. Yes, they were cleaned, but they were</p> <p>5 mainly cleaned by using a brush in order to get rid</p> <p>6 of chips.</p> <p>7 Q. Were they ever cleaned using fluids?</p> <p>8 A. Yes. They were cleaned using a napkin with</p> <p>9 a special cleaning substance, so that the rusting</p> <p>10 would be avoided, the rust formation would be</p> <p>11 avoided.</p> <p>12 Q. Were there any other cleaning methods using</p> <p>13 the fluid that you recall?</p> <p>14 A. Not during the apprenticeship.</p> <p>15 Q. You next mentioned you went to work, I</p> <p>16 believe, I will use the term, as an aeronautical</p> <p>17 engineering or something akin to that?</p> <p>18 A. Engineer would not be the right translation</p> <p>19 in the second part of the word you used. It would</p> <p>20 be fellow.</p> <p>21 Q. During what years did you work as a fellow?</p> <p>22 A. This only happened during six months, and</p> <p>23 this was around 1980.</p> <p>24 Q. What were your responsibilities when you</p>	<p style="text-align: right;">Page 12</p> <p>1 tool that we cleaned, we used different cleaning</p> <p>2 substances.</p> <p>3 Q. And why would you use different cleaning</p> <p>4 substances?</p> <p>5 A. Because there were different materials</p> <p>6 which were used, such as steel meshing. It's like</p> <p>7 copper. So you have steel, you have a substance</p> <p>8 which is like copper, or you have hand made</p> <p>9 material, such as plastic.</p> <p>10 Q. Am I correct you choose your solvents to</p> <p>11 avoid reactions with the particular material of the</p> <p>12 steering equipment?</p> <p>13 A. It is not I myself who made the choice on</p> <p>14 the liquids. It's the Air Force that dictated us</p> <p>15 which liquids to use.</p> <p>16 Q. Okay. When you went to the high school in</p> <p>17 Oberursel, what was your course of study?</p> <p>18 A. This is not like in college a study course</p> <p>19 that you take with a specific concentration on the</p> <p>20 subject. This is a technical high school diploma,</p> <p>21 general knowledge. You need to have this diploma in</p> <p>22 Germany in order to go to a college for further</p> <p>23 education.</p> <p>24 Q. How many years did you attend the technical</p>
<p style="text-align: right;">Page 11</p> <p>1 worked as a fellow?</p> <p>2 A. I was in charge of steering the Phantom</p> <p>3 Hunters. The steering units were returned to us</p> <p>4 from the Air Force. Then we checked the parts. If</p> <p>5 they needed repair, we did the repair, and then we</p> <p>6 returned them to the Air Force.</p> <p>7 Q. During your work as a fellow, did you have</p> <p>8 occasion to clean the steering equipment?</p> <p>9 A. Yes. They were cleaned very carefully</p> <p>10 using a humid brush. So it's very important that</p> <p>11 this is done very carefully, because the parts are</p> <p>12 sensitive.</p> <p>13 Q. Were there any fluids used in this cleaning</p> <p>14 process?</p> <p>15 A. Yes. Cold cleaning. This is a regularly</p> <p>16 used substance which you use for cold cleaning.</p> <p>17 Q. Was the cleaning process automatic or</p> <p>18 manual?</p> <p>19 A. Well, the liquid was in a recipient, and</p> <p>20 then I drenched the brush into the recipient with</p> <p>21 the liquid, and I cleaned manually the tool.</p> <p>22 Q. Were there any other cleaning processes you</p> <p>23 worked with in your fellowship?</p> <p>24 A. No, but depending on the material of the</p>	<p style="text-align: right;">Page 13</p> <p>1 high school?</p> <p>2 A. One year, and only one year, because this</p> <p>3 was a specific program which was conceived for</p> <p>4 people who had an apprenticeship.</p> <p>5 Q. After you left the technical high school,</p> <p>6 did you go to school or did you seek employment?</p> <p>7 A. Then I started studying.</p> <p>8 Q. And where did you study?</p> <p>9 A. I studied in Frankfurt, mechanics.</p> <p>10 Q. What school did you attend in Frankfurt?</p> <p>11 A. This is a subject specific college. It's</p> <p>12 called Fachhochschule. That's the name of the</p> <p>13 college.</p> <p>14 Q. Is it a technical college?</p> <p>15 A. Yes.</p> <p>16 Q. While you were at the school in Frankfurt,</p> <p>17 did you focus on any particular courses or subject</p> <p>18 matter?</p> <p>19 A. It was construction and optics.</p> <p>20 Q. Are you familiar with the term civil</p> <p>21 engineering?</p> <p>22 A. Yes, but civil engineering, that's not the</p> <p>23 field I was studying in.</p> <p>24 Q. Okay. When you say "construction," can you</p>

4 (Pages 10 to 13)

Juergen Hoeser May 11, 2005

Page 14

1 explain to me what career you would have been
2 looking to pursue after studying construction?

3 A. I have to correct this. Construction is
4 for what I did within construction is not the right
5 translation in English. Another word for
6 construction would be design.

7 INTERPRETER: There are three ways
8 interpreters know to translate the word construction
9 into English. I don't know which one it is.

10 MR. SHIMOTA: Okay. I got you. I
11 understand.

12 Q. Did you focus on the design of any
13 particular products or just design in general?

14 A. General design. So in general, it was the
15 objective of small design components.

16 Q. In connection with your design studies, do
17 you recall the courses you would have taken?

18 A. Partially. But there is a general
19 education system which has been conceived, which
20 everybody follows. It's the standard. During the
21 first three semesters, you have mathematics,
22 chemistry, physics, electronics and mechanics.

23 Q. Did you have occasion to study any cleaning
24 processes while you were at school in Frankfurt?

Page 15

1 A. No.

2 Q. How many years did you attend school in
3 Frankfurt?

4 A. I had to interrupt my studies after one
5 semester to finish my civil -- instead of going to
6 the military, you do the Civil Service. Then I went
7 back for seven semesters and I graduated.

8 Q. So it was approximately four and a half
9 years? I was wrong. I added it up wrong. Counting
10 the Civil Service, how long were you in school?

11 A. Somewhere between five and six years. So
12 the problem is this. Between the first semester and
13 the Civil Service, there was a break, and then there
14 was also another break between the end of the Civil
15 Service and the beginning of the next seven
16 semesters.

17 Q. What were your responsibilities when you
18 were in Civil Service?

19 A. I worked with refugees asylum seekers, in a
20 community of asylum seekers.

21 Q. Once you graduated from the school in
22 Frankfurt, what did you do next?

23 A. I had holiday for two months, and then I
24 did a job application for an engineer.

Page 16

1 Q. Where did you work following your studies
2 in Frankfurt?

3 A. With Black & Decker.

4 Q. When did you first come to work at Black &
5 Decker?

6 A. December 1, 1987.

7 Q. For how many years did you work at Black &
8 Decker?

9 A. Until 1994.

10 Q. What was your title at Black & Decker?

11 A. I had several functions within Black &
12 Decker. I started out as -- in this case it would
13 be a construction engineer. Then I became a project
14 manager. Then program manager. Then I changed
15 production. I then changed towards the production
16 field. There I was working with the finishing of
17 the products. I was head of production.

18 Q. While you were at Black & Decker, during
19 the whole period you were at Black & Decker, can you
20 describe for me generally what products you focused
21 on or were in charge of?

22 A. I only focused on one product during all of
23 those years, and those were pneumatic hammer drills.

24 Q. So this would have been from 1987 to 1994

Page 17

1 you focused exclusively on pneumatic hammer drills?

2 A. This was a range of products. I started
3 developing these products in 1987, and then up to
4 1994 I produced these hammer drills.

5 Q. During your employment at Black & Decker,
6 did you have occasion to become familiar with any
7 cleaning processes?

8 A. One cleaning process was used within the
9 production line. But this cleaning process was part
10 of a machine, integrated into a machine, and we did
11 the acquisition of this cleaning process as a
12 service which was included in that machine.

13 Q. Can you describe for me how this machine
14 operated?

15 A. Only seen from the outside.

16 Q. To the best of your recollection.

17 A. So, for example, we manufactured ourselves
18 the gears which were used for the production of the
19 hammer drills. They were put into boxes, bins, and
20 these bins were then sent through a washing line
21 system in order to get rid of the chips.

22 Q. So were the boxes sent on a conveyor belt?

23 A. Yes.

24 Q. Would there have been jets above spraying

5 (Pages 14 to 17)

Juergen Hoerster May 11, 2005

Page 18

1 fluid down onto the bins?

2 A. It is not possible for me to answer this
3 question, because I don't know. This was part of
4 the machine, and you couldn't see that from the
5 outside. It was a closed machine. At that point in
6 time I was in charge of the management of the entire
7 production. I was not in charge of the technical
8 details.

9 Q. What did you do after leaving Black &
10 Decker in 1994?

11 A. So after 1994, I applied for a job with
12 different companies, several companies, and one of
13 these companies was Braun. There was another
14 company by the name of Rockwell International.
15 Rockwell was the first one to employ me. I worked
16 for one year, during one year for Rockwell. Then I
17 signed a contract with Braun, and I switched jobs.
18 I went to work for Braun.

19 Q. Let's start with Rockwell. What was your
20 job title at Rockwell?

21 A. I was project manager within Rockwell.

22 Q. What products did you manage while you were
23 at Rockwell?

24 A. I only managed one project within Rockwell,

Page 19

1 and the project was the sunroof of BMW.

2 Q. While you were managing the manufacture of
3 sunroofs, did you have occasion to use any cleaning
4 processes?

5 A. No.

6 Q. So following your employment at Rockwell,
7 you came to work at Braun, correct?

8 A. Yes.

9 Q. Do you recall what month in which you began
10 to work at Braun?

11 A. July 1, 1995.

12 Q. When you came to work at Braun -- well, let
13 me ask you one question. Did you receive a doctoral
14 degree while you were at the university or the
15 college in Frankfurt?

16 A. No.

17 Q. Let me just ask this question, then. Did
18 you at some point receive a doctoral degree, at some
19 point leading up to today receive a doctoral degree?

20 A. No.

21 Q. When you came to work at Braun in July of
22 '95, what was your title?

23 A. Project manager.

24 Q. Were you the manager of any particular

Page 20

1 project?

2 A. Yes.

3 Q. What project was that?

4 A. The name of the project was cleaning
5 center.

6 Q. Do you know who was in charge of the
7 cleaning center project prior to your arrival at
8 Braun?

9 A. Yes.

10 Q. Who was that?

11 A. That was Mr. Braun.

12 Q. Are you aware that Mr. Braun left the
13 employment of Braun in early 1995?

14 A. Yes.

15 Q. Did you replace Mr. Braun?

16 A. Yes.

17 Q. Maybe that was a confusing question. You
18 were project manager. Did you have a direct
19 predecessor?

20 A. Well, if you want to say it that way, you
21 could call Mr. Braun, my predecessor, but Mr. Braun
22 was never a project manager as far as I know.

23 Q. Who was the project manager for the
24 cleaning center project prior to you assuming that

Page 21

1 position?

2 A. I can't give an answer to that question.

3 Q. Why can't you give an answer to that
4 question?

5 A. When I arrived, Mr. Braun has not been
6 working in that company for several months already.

7 Q. Well, when you arrived, who was working on
8 the cleaning center project?

9 A. Nobody.

10 Q. Well, when you interviewed with Braun, did
11 your interviewer explain that they would like you to
12 begin working on the cleaning center project?

13 MR. PATTON: I object to the form of the
14 question.

15 A. No.

16 Q. When did you first learn of the cleaning
17 center project?

18 A. I would say that happened in the first or
19 second week after I started working for Braun.

20 Q. How did you first come to learn of the
21 cleaning center project?

22 A. If somebody starts working for Braun, it is
23 general procedure that this new employee, during the
24 first week of the employment, makes a tour of the

6 (Pages 18 to 21)

Juergen Hoerster May 11, 2005

Page 22

1 department. So the person learns to know the
2 colleagues, all the installations, the whole setup.
3 During that week, nobody talks about a specific
4 project, but it is an introduction to Braun in
5 general, to the department.

6 Q. Okay. After your original introduction,
7 how did you then first learn of the cleaning center
8 project?

9 A. It was my direct supervisor or my direct
10 boss who informed me of this project. He gave me
11 written material, written information material, and
12 some parts, and explained to me that I would have to
13 familiarize myself with the material.

14 Q. Who was your direct supervisor in July of
15 1995?

16 A. That was Mr. Walter Schaefer.

17 Q. What written materials did Mr. Schaefer
18 provide to you?

19 A. It was a binder, and in this binder were
20 some written information, some drawings, and some
21 figures.

22 Q. Can you tell me approximately how many
23 pages of paper would have been in this binder?

24 A. It was not that large of a binder. I would

Page 23

1 estimate 20 pages.

2 Q. You said that there was at least one
3 schematic. Do you recall whether there was more
4 than one schematic?

5 A. There were several drawings of parts, and
6 at that point in time I did not know much about
7 those parts yet.

8 Q. Was there a complete drawing of the
9 cleaning device?

10 A. As far as I recall, no.

11 Q. Was there any written memoranda -- well,
12 are you familiar with the term "memoranda"?

13 A. Not really.

14 INTERPRETER: If you could translate this
15 into something German the witness says to me, there
16 are many different translations of that word. So I
17 would need to know first what you mean.

18 Q. Was there any correspondence between
19 individuals at Braun regarding the cleaning center
20 project?

21 A. As far as I recall, no.

22 Q. Beyond the drawings of the parts, can you
23 characterize what the other documents would have
24 been generally?

Page 24

1 A. There were several pages, and in all of
2 these pages was the same drawing, and the same
3 drawing reflected the functioning of a -- I mean,
4 literal translation, a machine to give or to supply
5 a chicken with water.

6 Q. This is a term I've heard before, the
7 chicken watering system. Can you explain to me what
8 you mean by a chicken watering system?

9 A. The drawing represented the cleaning system
10 in broad outlines, and then one of the functions
11 where they did this study or how they explained the
12 way the cleaning machine worked was with the example
13 of the chicken watering system.

14 Q. Is there some type of system in agriculture
15 where chickens are fed or provided with water that
16 you were thinking of?

17 A. Yeah. I was born in a rural area, and
18 everybody has such equipment.

19 Q. I wasn't. So can you describe for me what
20 this equipment would look like, this chicken
21 watering trough?

22 A. The trough is a recipient with liquid in
23 it, and the liquid is in the regular phases supplied
24 into this trough so that the trough never dries and

Page 25

1 the chicken always has water.

2 Q. With the trough for the chickens, how is
3 the water supplied to the trough?

4 A. When there is no water any more in the
5 trough, air is replacing the water, the function of
6 the water.

7 Q. So is water pumped into the trough in some
8 way?

9 A. No.

10 Q. So is it poured into the trough manually?

11 A. Yes.

12 Q. Okay. So when the trough becomes dry,
13 someone needs to come over and pour more water into
14 it?

15 A. Yes.

16 Q. Okay. With that in mind, why did you think
17 or why were you reminded of the chicken feeding
18 system when you saw the original work on the
19 cleaning system at Braun?

20 A. One cannot call this a system really. It
21 is the function which was provided, which reminded
22 me of the trough, because this was a funny concept,
23 and it stuck in my mind, a funny name, and it stuck
24 in my mind.

7 (Pages 22 to 25)

Juergen Hoeser May 11, 2005

Page 26

1 Q. What was the funny name?

2 A. Chicken trough.

3 Q. Was chicken trough a term or chicken
4 watering system -- that's bad. Was chicken trough a
5 term that you used in general to describe the
6 original cleaning system?

7 A. No.

8 Q. You never used the term "chicken watering
9 system" to describe what you saw?

10 A. No.

11 Q. When you started work on the cleaning
12 center project, did you have any experience in the
13 design of dry shavers?

14 A. No.

15 Q. Did you see your lack of experience in the
16 design of dry shavers as a problem with respect to
17 your management of the cleaning center project?

18 A. No.

19 Q. In July of 1995, did you believe you were
20 qualified to manage the cleaning center project?

21 MR. PATTON: I object to the form of the
22 question.

23 A. Yes.

24 Q. Why did you believe that you were qualified

Page 27

1 to manage the cleaning center project?

2 A. Well, prior to that, I was working on the
3 sunroof, and before working on the sunroof, I never
4 was working on the sunroof before, and you can
5 always study a certain technology.

6 Q. So based upon your education and work
7 experience, you felt you were qualified to manage
8 the cleaning center project; is that correct?

9 A. That's correct.

10 Q. The binder that we were discussing, do you
11 still have that binder?

12 A. That binder doesn't exist any more in its
13 original form. During the first six months in 1995,
14 I compiled every single information I could gather
15 on the cleaning, shaving instruments, on the
16 cleaning systems. So I organized my own binder with
17 my own information material.

18 Q. Does the binder that you generated in the
19 first six months still exist?

20 A. Well, of course this binder became much
21 larger over time.

22 Q. When you say a binder, do you mean a
23 laboratory notebook or are you talking about
24 something along the lines of this?

Page 28

1 A. We are talking about both. I had my own
2 lab notebook, but then I also had my file, I mean my
3 binder, where I filed my own documents, my
4 information. With each project phase, the order, I
5 mean, the way the binder is put together changes.

6 Q. In the first phase, in the first six months
7 of the project, can you recall how large the binder
8 would have been, approximately, in terms of volume
9 of paper?

10 A. I can't express this in the number of
11 pages, but it was a fat binder which was already
12 relatively full at that time.

13 Q. Okay. Why don't we take a step back. You
14 mentioned Mr. Schaefer provided you with some
15 background materials. Did you come to receive any
16 additional documents detailing work on the cleaning
17 center prior to your arrival at Braun?

18 A. No.

19 Q. Did you ever receive Mr. Braun's personal
20 files related to his work on the cleaning center
21 project?

22 A. No.

23 Q. Do you know what became of Mr. Braun's
24 files related to the cleaning center project after

Page 29

1 he left the employment of Braun?

2 A. Part of the documents in the first binder
3 were documents of Mr. Braun. I found in that first
4 binder drawings that were made by Mr. Braun.

5 Q. Okay. So the first binder, you're talking
6 about what was provided to you by Mr. Schaefer?

7 A. Yes.

8 Q. And did you ever come to find any other
9 documents that were authored by Mr. Braun related to
10 the cleaning center project?

11 A. Yes. In the department where we keep the
12 drawings, there existed some large documents which I
13 then also took over.

14 Q. How many large drawings -- I don't know if
15 you said documents or drawings -- how many large
16 documents would there have been, approximately?

17 A. At the most, one or two.

18 Q. The binders that -- well, let's just talk
19 about -- well, you said over the course of your work
20 on the cleaning center project you generated many
21 binders; is that correct?

22 A. Yes.

23 Q. Can you approximate for me how many
24 binders?

8 (Pages 26 to 29)

Juergen Hoeser May 11, 2005

<p style="text-align: right;">Page 30</p> <p>1 A. No.</p> <p>2 Q. Would it be more than ten?</p> <p>3 A. No.</p> <p>4 Q. So would it be more than five binders?</p> <p>5 A. Yes.</p> <p>6 Q. You used the term fat binders. Are all the</p> <p>7 binders you would be thinking of, would those be fat</p> <p>8 binders?</p> <p>9 A. Yes.</p> <p>10 Q. Do you still have the five or more or</p> <p>11 approximately five binders?</p> <p>12 A. I think I gave you all of the binders I</p> <p>13 have.</p> <p>14 Q. So you believe you provided all of the</p> <p>15 binders to Braun's attorneys?</p> <p>16 A. Yes. Maybe to explain, from a certain</p> <p>17 point on in the documents relating to the project,</p> <p>18 everything is documented about our computer system.</p> <p>19 Q. So all the documents are archived</p> <p>20 electronically?</p> <p>21 A. No. I mean, from a certain point in time</p> <p>22 onwards, the design, the main design, was done on</p> <p>23 CAD. So from that point on, no information could be</p> <p>24 lost with regards to the design any more. There is</p>	<p style="text-align: right;">Page 32</p> <p>1 numbered topics listed on those pages?</p> <p>2 A. Yes.</p> <p>3 Q. Are you prepared to testify today on behalf</p> <p>4 of Braun with respect to each of those 26 topics?</p> <p>5 A. Yes.</p> <p>6 Q. And you understand with respect to those 26</p> <p>7 numbered topics, you are not only testifying as to</p> <p>8 your personal knowledge, but also as to the</p> <p>9 knowledge of Braun, correct?</p> <p>10 A. Yes.</p> <p>11 Q. What did you do to prepare for the</p> <p>12 deposition today?</p> <p>13 A. I was sitting in with the attorneys, and we</p> <p>14 went through these points.</p> <p>15 Q. Would the attorneys have been Mr. Patton</p> <p>16 and Ms. Wendlandt?</p> <p>17 A. Yes.</p> <p>18 Q. Did you meet with any other attorneys?</p> <p>19 A. Mrs. Wolf was there as well.</p> <p>20 Q. Did you meet with attorneys for a day or</p> <p>21 more than one day?</p> <p>22 A. One day.</p> <p>23 Q. And over approximately how many hours did</p> <p>24 you meet with attorneys?</p>
<p style="text-align: right;">Page 31</p> <p>1 a possibility that some of these pages are</p> <p>2 redundant, because I have it once computer generated</p> <p>3 and I have it on papers. So the same document might</p> <p>4 appear twice.</p> <p>5 Q. Did there come a time within Braun where</p> <p>6 there was an intranet which would have had a file</p> <p>7 related to the cleaning center project?</p> <p>8 A. No.</p> <p>9 MR. SHIMOTA: Could you like to take a</p> <p>10 little break?</p> <p>11 MR. PATTON: I would.</p> <p>12 VIDEOGRAPHER: Off the record, 10:30 a.m.</p> <p>13 (Recess)</p> <p>14 VIDEOGRAPHER: Back on the record, 10:42</p> <p>15 a.m.</p> <p>16 MR. SHIMOTA: Welcome back. I would like</p> <p>17 to mark as Defendant's Deposition No. 49 Defendant's</p> <p>18 First Notice of Rule 30(b)(6) deposition.</p> <p>19 (Document marked as Exhibit 49</p> <p>20 for identification)</p> <p>21 Q. I'd ask you if you recognize this document?</p> <p>22 A. Yes.</p> <p>23 Q. If you could direct your attention to Page</p> <p>24 4 through Page 6, do you see that there are 26</p>	<p style="text-align: right;">Page 33</p> <p>1 A. I would say three hours.</p> <p>2 Q. Over the course of those three hours, did</p> <p>3 you review any documents?</p> <p>4 A. Yes.</p> <p>5 Q. Do you recall how many documents you</p> <p>6 reviewed?</p> <p>7 A. No.</p> <p>8 Q. Do you recall any particular documents that</p> <p>9 you reviewed?</p> <p>10 A. Yes.</p> <p>11 Q. What documents would those be?</p> <p>12 A. The chronology line.</p> <p>13 Q. Oh, the time line?</p> <p>14 A. Yes.</p> <p>15 Q. Did you review any other documents aside</p> <p>16 from the time line? Let me rephrase that question.</p> <p>17 Do you recall any specific documents that you</p> <p>18 reviewed aside from the time line?</p> <p>19 A. Yes. The patent application of Mr. Braun.</p> <p>20 Q. Do you mean Mr. Braun's actual patent or</p> <p>21 his invention disclosure record?</p> <p>22 A. I mean the disclosure, the patent</p> <p>23 disclosure.</p> <p>24 Q. Did you review the patents that are</p>

9 (Pages 30 to 33)

Juergen Hoeser May 11, 2005

Page 34

1 asserted against Rayovac in this?
 2 A. We were talking about them.
 3 Q. Do you recall any other documents
 4 specifically that you reviewed aside from what we've
 5 already discussed?
 6 A. The Messinger files. Messinger is the name
 7 of the person who compiled files.
 8 Q. Do you recall any other documents
 9 specifically that you reviewed?
 10 A. The depositions of Braun and Pahl from last
 11 year.
 12 Q. You reviewed the deposition transcripts of
 13 Mr. Braun and Mr. Pahl?
 14 A. I just looked over them.
 15 Q. Do you recall how long you would have
 16 looked over them?
 17 A. A few minutes.
 18 MS. WENDLANDT: Jim, just to clarify, I
 19 think there may have been a mistranslation. It
 20 wasn't the deposition transcripts, but the
 21 affidavits.
 22 MR. SHIMOTA: All right. I didn't quite
 23 understand how he would have done that.
 24 Q. Did you review your laboratory notebooks in

Page 35

1 preparation for your deposition?
 2 A. No.
 3 Q. Have you reviewed your laboratory notebooks
 4 at all recently?
 5 A. No.
 6 Q. Aside from your meeting with the lawyer --
 7 did the meeting with the lawyers occur yesterday?
 8 A. No. It was Monday.
 9 Q. Okay. Aside from your meeting with the
 10 lawyers on Monday, did you do anything else to
 11 prepare yourself to testify with respect to the 26
 12 topics in Defendant's Exhibit 49?
 13 A. No.
 14 Q. Did you talk with any employees of Braun to
 15 provide yourself with knowledge with respect to the
 16 26 listed topics?
 17 A. I talked to Mr. Sievers who works in the
 18 patent department.
 19 Q. Did you discuss with Mr. Sievers -- well,
 20 did Mr. Sievers provide you any information to
 21 enable you to testify with respect to the 26 listed
 22 topics?
 23 A. Certainly.
 24 Q. What information did Mr. Sievers provide

Page 36

1 you?
 2 A. I asked him if it would be possible for him
 3 to explain in broad outlines the two patents to me.
 4 Q. So I take it -- well, had you seen the two
 5 patents prior to speaking with Mr. Sievers?
 6 A. No.
 7 Q. Had you seen the German versions of the two
 8 patents?
 9 A. Yes.
 10 Q. Do you recall when you had seen the German
 11 versions of the two patents?
 12 A. I can't say with certainty, but it must
 13 have been '95, '96.
 14 Q. Did Mr. Sievers provide you any other
 15 information to enable you or to help you prepare to
 16 testify with respect to the 26 listed topics in
 17 Defendant's Exhibit 49?
 18 A. No.
 19 Q. Aside from Mr. Sievers, did you talk with
 20 anyone else at Braun to gain information to help you
 21 testify with respect to the 26 topics listed in
 22 Defendant's Exhibit 49?
 23 A. No.
 24 Q. If you could look to Topic 14 on Page 5, I

Page 37

1 take it you are prepared to testify with respect to
 2 Braun's document retention and destruction policies?
 3 A. Yes.
 4 Q. Can you describe for me in general what
 5 Braun's document retention policy is?
 6 A. The main document retention with regards to
 7 a certain project always happens at a certain point
 8 in time on our CAD system and our parts system. The
 9 employees have absolutely no impact on the length of
 10 time when these documents are retained.
 11 Q. When you say the employees have no input as
 12 to the length of time the documents are retained,
 13 who makes the decision as to the length of time?
 14 A. As far as I know, the decision is made in
 15 the department, which is in charge of data
 16 management.
 17 Q. Okay. Who is in charge of the department
 18 of data management?
 19 A. I don't know.
 20 Q. Is there a written policy with regard to
 21 the length of time -- well, let me take a step back.
 22 I believe we are talking about electronic
 23 information in the CAD system and the part system;
 24 is that correct?

10 (Pages 34 to 37)

Juergen Hoerster May 11, 2005

Page 38

1 A. Yes.
 2 Q. Is there a written policy with respect to
 3 how long that particular electronic information is
 4 maintained within the Braun system?
 5 A. As far as I know, no.
 6 Q. When you say as far as you know, did you
 7 check whether there is a written policy?
 8 A. The lawyers checked that.
 9 Q. What lawyers checked that?
 10 A. Our lawyers.
 11 Q. And you learned from your lawyers that
 12 there is not a written policy?
 13 A. Yes.
 14 Q. Well, is the decision with respect to the
 15 retention of the electronic -- well, let me ask this
 16 question. How do the people in the information
 17 department know how long to retain the electronic
 18 information?
 19 A. The documents are retained as long as the
 20 project is active, because the developer of the
 21 project needs at any time to be able to retrieve any
 22 information with regards to the project.
 23 Q. Is the cleaning center project still
 24 project?

Page 39

1 A. Yes.
 2 Q. So documents related to the cleaning center
 3 project would still be -- well, the electronic
 4 information related to the cleaning center project
 5 would still be retained by Braun?
 6 A. Yes.
 7 Q. With respect to the electronic information,
 8 you mentioned the CAD system, correct?
 9 A. And I also mentioned the parts system.
 10 Q. Let's start with the CAD system first. Am
 11 I correct that in the CAD system, there would be
 12 drawings of both the cleaning system as a whole and
 13 parts of the cleaning system?
 14 A. There are drawings related to the parts.
 15 There are drawings related to design groups, and
 16 then there are, of course, the parts themselves and
 17 the design groups themselves.
 18 Q. Do you recall what year in which Braun
 19 would have been using the CAD system with respect to
 20 the cleaning center project?
 21 A. Approximately in 1997.
 22 Q. Can you approximate for me from 1997 to the
 23 present how many drawings would have been created
 24 for the cleaning center project in the CAD system?

Page 40

1 A. Do you mean with or without amendments?
 2 Q. I mean both, with amendments, you know,
 3 combining original drawings and amendments to those
 4 drawings. Iterations if that makes sense.
 5 A. Hundreds.
 6 Q. Could it be more than a thousand drawings?
 7 A. I don't know.
 8 Q. Now, you also mentioned the parts system.
 9 Can you explain to me what you mean by the parts
 10 system?
 11 A. A parts list documents what parts in which
 12 order are necessary in order to manufacture a
 13 product, and which materials and which colors,
 14 including the packaging, are necessary.
 15 Q. When you say the list of parts, are you
 16 familiar with the term "bill of materials"?
 17 A. Yes.
 18 Q. Are you talking about a bill of materials?
 19 A. Yes.
 20 Q. Within the electronic database, do you have
 21 any estimation of how many bills of materials there
 22 would be related to the cleaning center project?
 23 A. I'm certain that there are more than 20 or
 24 30, because every country receives its own bill of

Page 41

1 materials. We are only talking about the active
 2 ones.
 3 Q. I would like to know, starting from what
 4 would be the original bill of materials that were
 5 stored electronically, to present, how many would
 6 you estimate?
 7 A. To clarify, when I start with a bill of
 8 materials, if there is a modification or an
 9 amendment made to the bill of material, I do not
 10 start a new bill of material, but there will be a
 11 difference in indexing. It will just have a
 12 different index.
 13 Q. It would be, for example, a bill of
 14 materials, version one, bill of materials, version
 15 two?
 16 A. Exactly.
 17 Q. With that clarification in mind, can you
 18 estimate for me approximately how many bills of
 19 materials would be stored electronically at Braun?
 20 A. I don't know.
 21 Q. Would it be more than a thousand?
 22 A. No.
 23 Q. More than a hundred?
 24 A. It's a guess.

11 (Pages 38 to 41)

Juergen Hoeser May 11, 2005

Page 42

1 Q. Okay. Aside from the CAD system
2 information and the parts system information, would
3 there be any other information stored electronically
4 with respect to the cleaning center project at
5 Braun?

6 A. Yes.

7 Q. What information would that be?

8 A. There are the e-mails, and then there are
9 presentations in the computer systems which are
10 managed by the individuals, and there are reports.

11 Q. Let's start with reports. What do you mean
12 by "reports"?

13 A. The word "report" has several meanings.
14 There are conversation reports, meeting reports, and
15 quality reports.

16 Q. Are the meeting reports stored in a central
17 location electronically or are they stored with an
18 individual?

19 A. Individual.

20 Q. Can you explain what you mean by quality
21 report?

22 A. When we test a product, for example, the
23 user friendliness of the product. Then this report
24 is officially generated by the quality department,

Page 43

1 the quality control department, and this is then
2 stored in the central system.

3 Q. With respect to the quality reports -- do
4 you know what is Braun's document retention policy
5 with respect to the quality reports?

6 A. No.

7 Q. Do you have any idea who could answer the
8 question what is Braun's document retention policy
9 with respect to the quality reports?

10 A. Yes. We do have somebody who manages all
11 the documents. There is a department for that
12 purpose.

13 Q. Do you know of a name of that individual?

14 A. Yes.

15 Q. What is that individual's name?

16 A. Uta Abraham.

17 Q. Have you seen the quality reports in the
18 central -- is it a central database?

19 A. I don't know how you mean this. What do
20 you mean by see?

21 Q. Let me take a step back and ask this
22 question. There's a central computer or group of
23 computers at Braun in which electronic information
24 is stored, correct?

Page 44

1 A. I assume that.

2 Q. Well, do you know whether within that
3 computer information is segregated by project?

4 A. Yes.

5 Q. Am I correct that it is segregated by
6 project?

7 A. Yes.

8 Q. So am I also correct that there is a
9 database for the cleaning center project?

10 A. I wouldn't call this a data bank. You have
11 to enter a word and do a search, perform a search.
12 I don't know how the data bank is organized.

13 Q. But the particular area for the project is
14 searchable by a user, correct?

15 A. Yes.

16 Q. Have you personally performed searches in
17 this folder or files for -- well, let me rephrase.
18 Have you personally performed searches related to
19 the cleaning center project within this grouping of
20 information?

21 A. Yes.

22 Q. Who has access at Braun to this cleaning
23 center file?

24 A. I don't know the names of the people who

Page 45

1 have access, but I know that a number of people who
2 have access is a limited number. You have to have a
3 user ID and a password.

4 Q. Within this file folder, I think we have
5 been talking about, in general, for terms of
6 electronic information, technical information; is
7 that fair to say?

8 A. Yes.

9 Q. Within these files, would there also be
10 financial information related to the cleaning center
11 project?

12 A. No.

13 Q. Well, is this file solely -- well, let me
14 take a step back. Within this file or this grouping
15 of electronic information, is there also information
16 related to the marketing of the cleaning center
17 project?

18 A. As far as I know, no, and I don't have
19 access to that information anyway.

20 Q. Well, do you know whether from 1995 to the
21 present whether there have been marketing studies
22 with respect to the cleaning center project?

23 A. Yes.

24 Q. Do you know where the market research would

12 (Pages 42 to 45)

Juergen Hoeser May 11, 2005

Page 46

1 be stored at Braun?

2 A. No.

3 Q. Do you know what Braun's document retention
4 policies are with respect to the market research
5 pertaining to the cleaning center project?

6 A. No.

7 Q. Let me see if I can expedite this. Your
8 knowledge with respect to Braun's document retention
9 and destruction policies pertains to retention and
10 destruction of technical documentation pertaining to
11 the cleaning center project; is that correct?

12 A. Yes.

13 Q. Do you know who I would ask, if I needed to
14 -- well, do you know who I would ask the question
15 what is Braun's -- let me rephrase that.

16 Do you know who I should ask the question
17 what are Braun's document retention policies for the
18 marketing research for the cleaning center project?

19 A. Ms. Abraham.

20 Q. If I wanted to ask the same question with
21 respect to financial information, would I also ask
22 Ms. Abraham?

23 A. That I don't know.

24 Q. Taking a step back, you also mentioned

Page 47

1 presentations which would be stored individually or
2 presentations which could be stored individually?

3 A. Yes.

4 Q. What is Braun's document retention policy
5 with respect to individual presentations?

6 A. There is no policy. Everybody maintains
7 those presentations as long as he or she believes
8 they would serve them.

9 Q. You also mentioned e-mails?

10 A. Yes.

11 Q. How long has Braun had e-mail?

12 A. I would say it was around '97, '98.

13 Q. What is Braun's document retention policy
14 with respect to electronic mail?

15 A. Everybody has a limited file size, and if
16 the individual employee goes beyond that size, then
17 they have to delete files. There is the possibility
18 to transfer some files to an intermediary archive
19 system, but also that intermediary archive system is
20 limited in space.

21 Q. Do you know if there are e-mails archived
22 related to the cleaning center project?

23 A. Certainly.

24 Q. Would they be in the intermediary archive?

Page 48

1 A. I can also speak on my personal behalf.

2 That's the place where my files would be.

3 Q. Would those files be stored -- we talked
4 earlier about the cleaning center project file.

5 Would the e-mails also be grouped in the cleaning
6 center file or would that be a separate location?

7 A. So everybody can organize the e-mails the
8 way he or she likes to do so, I myself organize my
9 own file with mails related to the cleaning center.

10 Q. Do you know how many individuals who have
11 worked on the cleaning center project have archived
12 e-mails related to the cleaning center project,
13 approximately?

14 A. No. When one works on such a project,
15 everybody is involved in some way in this project.
16 There are people who work with the finishing of the
17 products, the manufacturing, the production line,
18 and then there is the management department, there
19 is the sales department. So many people can be
20 involved in this.

21 Q. Well, for yourself personally, can you
22 approximate for me how much e-mail you have archived
23 related to the cleaning center project?

24 A. Hundreds.

Page 49

1 MR. SHIMOTA: We need to take a break to
2 change the tape.

3 VIDEOGRAPHER: Here ends tape number one.
4 Off the record, 11:28 a.m.

5 (Recess)

6 VIDEOGRAPHER: Here begins videotape number
7 two in today's deposition of Juergen Hoeser. Back
8 on the record at 11:37 a.m.

9 BY MR. SHIMOTA:

10 Q. We were previously discussing electronic
11 information, and correct me if I'm wrong, but I
12 think Braun started using electronic information or
13 generating electronic information in earnest around
14 1997?

15 A. That's correct.

16 Q. Prior to that time I assumed everything was
17 recorded on paper?

18 A. Yes.

19 Q. With respect to the cleaning center
20 project, what is Braun's document retention policy
21 with respect to paper records?

22 A. There is none.

23 Q. Is there a document destruction policy with
24 respect to the paper records?

13 (Pages 46 to 49)

Juergen Hoese May 11, 2005

Page 50

1 A. Not to my knowledge.

2 Q. So with respect to the paper records, am I
3 correct with respect to paper records an employee is
4 free to either keep them or throw them away?

5 A. Yes.

6 Q. Do you know if there is any archive of
7 paper records with respect to the cleaning center
8 project?

9 A. My own archive.

10 Q. Other than your own, is there any other
11 storage of paper records relating to the cleaning
12 center project?

13 A. In the patent department.

14 Q. Have you seen the archival records in the
15 patent department?

16 A. I have not seen them with my own eyes, but
17 I know that they exist there.

18 Q. Let me make sure. In the patent
19 department's archives, are there technical
20 documents, and I don't mean patents, retained?

21 A. There are patents and there are
22 invention-related material.

23 Q. Well, you said you know that this archive
24 exists. How do you know it exists?

Page 51

1 A. Because of conversations with Mr. Sievers
2 and his predecessor.

3 Q. Who is Mr. Sievers' predecessor?

4 A. Mr. Klauer, K-l-a-u-e-r.

5 Q. So Mr. Klauer and Mr. Sievers told you
6 there's an archive of materials related to the
7 cleaning center project?

8 A. No.

9 Q. What did Mr. Klauer or Mr. Sievers tell you
10 regarding the archiving of information regarding the
11 cleaning center project?

12 A. They didn't say anything to me with regards
13 of archiving of information regarding the cleaning
14 center project. They said to me that
15 invention-related material is maintained, is stored.

16 Q. Okay. Do you know what Braun's document
17 retention policy is with respect to
18 invention-related materials?

19 A. No.

20 Q. Do you know who I should ask the question
21 what Braun's policy is with respect -- well, Braun's
22 document retention policy is with respect to the
23 invention-related materials?

24 A. Mr. Sievers.

Page 52

1 Q. Do you know whether Mr. Sievers received
2 all of Mr. Klauer's files?

3 A. No.

4 Q. If you could look to Topic No. 3 --
5 actually, topics six and seven, but look to three
6 first. Topic 7 says, "Any and all steps taken by
7 Braun to collect documents authored by, sent to or
8 from the files of Dietrich Pahl or Gebhard Braun."

9 INTERPRETER: There wasn't any question,
10 right?

11 MR. SHIMOTA: No. I was just directing his
12 attention to it.

13 Q. What steps were taken by Braun to collect
14 documents authored by, sent to or from the files of
15 Dietrich Pahl?

16 A. I was asked to provide my documents. This
17 includes the documents of Mr. Pahl and Mr. Braun.
18 As far as I owned those documents, and I provided
19 all of those documents to the lawyers.

20 Q. What documents did you have from Dr. Pahl?

21 A. I had the chicken trough drawings, the
22 chicken trough documents, and some drawings.

23 Q. What are the chicken trough documents that
24 you refer to?

Page 53

1 A. I refer to the very first documents in the
2 very first binder, which I received with regards to
3 explaining the effects of such a chicken trough.

4 Q. Was there a memo explaining the effects of
5 the chicken trough or did I mishear you?

6 A. Yes.

7 Q. What did this memo look like?

8 A. It had the following respect. You saw a
9 cleaning center, very rough sketched of a cleaning
10 center, and underneath that drawing you had the
11 explanations in lines of the effects of such a
12 chicken trough cleaning center.

13 Q. Did this memo have written at the top
14 "future" --

15 A. No.

16 Q. Do you recall the date of this document?

17 A. No. I even think there was no date on this
18 document, but I'm not 100 percent sure. In any
19 case, this document was authored prior to 1995.

20 MR. SHIMOTA: I'd like to mark as
21 Defendant's Deposition Exhibit No. 50 English
22 version of Braun 1069 to 1073, and mark as
23 Defendant's Deposition Exhibit 51 the German version
24 of B1069 to 1073, although this actually goes to

14 (Pages 50 to 53)

Juergen Hoesser May 11, 2005

Page 54

1 1076. This is B1069 to 1076.
 2 (Documents marked as Exhibits 50 and 51
 3 for identification)
 4 Q. Is this the memo you referred to?
 5 A. No.
 6 Q. Do you recall who was the author of the
 7 memo? Not that, but the memo regarding the chicken
 8 trough?
 9 A. I believe that it was Mr. Braun.
 10 Q. Was the memo distributed to anyone?
 11 A. What do you mean "distributed"?
 12 Q. Was the memo prepared for any other
 13 individuals.
 14 A. No. When this document was prepared by Mr.
 15 Braun for his own work, and he did this memo for
 16 himself to explain steps of his own work to himself.
 17 Q. As of when you provided the documents to
 18 your lawyers, did this memo still exist?
 19 A. No, I can't answer that.
 20 Q. Let me take a step back. When you talk
 21 about the steps that Braun took to collect the
 22 documents of Dietrich Pahl and Gebhard Braun, you
 23 mentioned the 20 or so documents provided to you by
 24 Mr. Schaefer, correct?

Page 55

1 A. Yes.
 2 Q. Were you able to distinguish from those
 3 documents which were the documents of Dr. Pahl and
 4 which were the documents of Gebhard Braun?
 5 A. Only partially.
 6 Q. When you say "only partially," what do you
 7 mean when you say "only partially"?
 8 A. When I received those documents, some of
 9 those documents did not have a signature, to give
 10 you an example.
 11 Q. Well, can you recall any of them which you
 12 knew were documents owned or were documents of Dr.
 13 Pahl?
 14 A. I can't recall that now.
 15 Q. When you received the documents in July of
 16 '95, were you aware they were documents from both
 17 Mr. Braun and Dr. Pahl?
 18 A. Yes. Mr. Schaefer told me so.
 19 Q. Mr. Schaefer told you that you were
 20 receiving documents from both Mr. Braun and Dr.
 21 Pahl?
 22 A. Yes. He said these are the documents which
 23 have to do with the cleaning center project, and
 24 those documents that Mr. Pahl and Mr. Braun were

Page 56

1 working on.
 2 Q. Mr. Schaefer told you Mr. Braun and Dr.
 3 Pahl were both working on the cleaning center
 4 project?
 5 A. Yes.
 6 Q. Did he tell you what roles Mr. Braun and
 7 Dr. Pahl had on the cleaning center project
 8 respectively?
 9 A. It was clear that Pahl was the boss and
 10 Braun was the co-worker.
 11 Q. When you started working, did anyone tell
 12 you who made the first cleaning center?
 13 A. Not directly. I was told that the person
 14 who worked on this before was retired, and that it
 15 was Mr. Braun, and Mr. Pahl didn't work there any
 16 more.
 17 Q. Taking us back to Topic No. 7, aside from
 18 you personally looking through your files for the
 19 documents of Dietrich Pahl and Gebhard Braun, what
 20 other steps did Braun take to collect documents
 21 authored by, sent to or received from the files of
 22 those two gentlemen?
 23 A. I don't know.
 24 Q. If you could look at Topic 3, I'm going to

Page 57

1 ask you the same type of question I did for No. 7.
 2 Do you see the first individual is yourself. What
 3 did you do to collect documents from your personal
 4 files related to the shaver cleaning center project?
 5 A. I handled this as a project. This was a
 6 project for me. In my own department, I contacted
 7 all the people who might have made a contribution,
 8 and all those people who might have information
 9 which could help me.
 10 Q. So there's a list of individuals here
 11 following your name. Did you contact each of these
 12 individuals and ask them to gather documents related
 13 to the shaver cleaning system project?
 14 A. I certainly spoke to all of those people,
 15 but I did not contact them at the very beginning.
 16 Some of those people joined Braun much later or only
 17 help out at that time, then, with the project.
 18 Q. Taking a step back to yourself, am I
 19 correct that you did not provide your electronic
 20 information to Braun's attorneys, your electronic
 21 information relating to the shaver cleaning center
 22 project?
 23 A. I provided the Braun attorneys with all the
 24 personal electronic information which was on my

15 (Pages 54 to 57)

Juergen Hoeser May 11, 2005

Page 58

1 personal computer, except mail files.

2 Q. So you didn't provide the attorneys with
3 your electronic mail files?

4 A. Yeah.

5 Q. And do you know whether the attorneys
6 received the electronic mail files that you had
7 archived?

8 A. I don't know.

9 Q. Did the attorneys ask you for your
10 electronic mail files?

11 A. No.

12 Q. With respect to Mr. Schneider, did you
13 contact Mr. Schneider regarding the gathering of
14 documents related to the shaver cleaning center
15 project?

16 A. No. Mr. Schneider is the head of the
17 industrial design department of our company, and I
18 learned much later that he created an industrial
19 design.

20 Q. What did you learn much later or how did
21 you learn much later that he had created an
22 industrial design of, I assume, the shaver cleaning
23 system?

24 A. There are two types of information related

Page 59

1 to this question. First there was a prototype, a
2 rapid prototype, a housing part.

3 INTERPRETER: I will give this answer
4 again, interpreter's notes. It was not well
5 understood before.

6 A. I received from Mr. Schaefer two parts, and
7 these parts should have prototypes, and then I found
8 out that there was already a design for these parts
9 in existence.

10 The second source I was talking to you
11 about before was Mr. Littman. Mr. Littman was an
12 industrial designer. Together with him, I developed
13 the first industrial design for my own cleaning
14 center, in quotation marks. He was the person who
15 told me that Mr. Schneider did an industrial design
16 in the past.

17 Q. To your recollection, did Mr. Littman work
18 with Mr. Schneider? Were they part of the same
19 group in the '93, '94, '95 time frame?

20 A. Mr. Schneider is Mr. Littman's boss, but I
21 don't know when he became Mr. Littman's boss. It
22 might have been '93, '94. I don't know.

23 Q. Did the design that Mr. Schneider made, was
24 that committed to paper form? Was there a schematic

Page 60

1 for that design?

2 A. I don't know.

3 Q. Well, let me just ask this question, then.
4 What steps has Braun taken to collect documents from
5 Mr. Schneider relating to the shaver cleaning center
6 project?

7 A. I don't know.

8 Q. Next with respect to Mr. Littman, what
9 steps has Braun taken to collect documents from Mr.
10 Littman related to the shaver cleaning center
11 project?

12 A. I don't know.

13 Q. I take it, then, you did not personally ask
14 Mr. Littman for --

15 A. I did not personally ask.

16 Q. Okay. I understand. I understand Mr.
17 Greubel is retired from Braun or he no longer works
18 at Braun?

19 A. He is retired.

20 Q. Do you know whether Braun has made any
21 efforts to locate documents which would have been
22 left by Mr. Greubel related to the shaver cleaning
23 center project?

24 A. Mr. Greubel is an industrial designer, and

Page 61

1 as an industrial designer, he works in a way which
2 can be compared to an artist working with a form,
3 and he left this form for me.

4 Q. So he left a prototype for you?

5 A. Yes. Mr. Greubel, and I myself, we met and
6 had a discussion. I explained to him what the
7 apparatus should look like in broad outlines, and
8 then Mr. Greubel produced a 3D industrial design
9 using hard film and material.

10 Q. Do you know if Mr. Greubel, aside from the
11 prototype and the physical materials he was working
12 with, if he ever generated any documents, written
13 documents?

14 A. Not as far as I know.

15 Q. Let me ask this question one more time. Do
16 you know what efforts, if any, Braun has made to
17 collect written documents, if any exist, from Mr.
18 Greubel?

19 A. No.

20 Q. Do you know what steps were taken by Braun
21 to collect documents from Roland Ullmann relating to
22 the shaving cleaning center project?

23 A. Mr. Ullmann is another industrial designer,
24 and I did his documentation myself. I am the author

16 (Pages 58 to 61)

Juergen Hoese May 11, 2005

Page 62

1 of his documents. In those days, we worked in the
2 following way. Mr. Ullmann steered or guided myself
3 so that I could produce with the virtual system on
4 the CAD system a 3D industrial design.

5 Q. How did you communicate with Mr. Ullmann;
6 was it always verbally or did you communicate in
7 writing or both?

8 A. In those days, Mr. Ullmann came every day
9 to my workplace, and we spoke about all the details,
10 sitting together in front of the computer monitor.
11 So Mr. Ullmann saw what I was doing, and when he
12 wanted to have a modification done, it could be done
13 directly there. So it was done in the realtime.

14 Q. Okay. I understand. With that in mind, do
15 you know if anyone at Braun, including yourself, has
16 asked Mr. Ullmann if he personally has documents
17 related to his work on the shaver cleaning system?

18 A. I personally asked him for this
19 information, but I didn't ask him for written
20 material. I asked him for his 3D industrial design
21 models, because this is what he does for his work.
22 That's the way he expresses himself.

23 Q. Okay. Do you know if he would have had any
24 other documents, aside from the 3D design?

Page 63

1 A. I don't know.

2 Q. Aside from yourself, do you know if anyone
3 at Braun has asked him if he has any other
4 information, aside from his 3D designs?

5 A. I don't know.

6 Q. What steps were taken by Braun to collect
7 documents from the files of Gilbert Greaves relating
8 to the shaver cleaning center project?

9 A. I don't know.

10 Q. What steps were taken by Braun to collect
11 documents from the files of Alf Jahn related to the
12 shaving cleaning center project?

13 A. Alf Jahn was my co-worker about 1997. In
14 all the documents he earned are now in my propriety.
15 I own them now.

16 Q. So Mr. Jahn gave you all of his files?

17 A. Yes.

18 Q. Has Mr. Jahn left the employment of Braun?

19 A. Yes.

20 Q. As part of what you provided to the
21 lawyers, you provided the files of Mr. Jahn,
22 correct?

23 A. Yes.

24 Q. Tell me what steps were taken by Braun to

Page 64

1 collect documents from the files of Norbert Kreutz
2 related to the shaving cleaning center project?

3 A. That I don't know. Mr. Kreutz was a
4 technical drawer who was only helping us out in that
5 capacity with the drawing.

6 Q. Is Mr. Kreutz still employed by Braun?

7 A. Yes.

8 Q. What steps were taken by Braun to collect
9 documents from the files of Thomas Schamberg
10 relating to the saving cleaning center project.

11 A. I don't know. Mr. Schamberg, his function
12 was the same as Mr. Kreutz.

13 Q. And finally, what steps -- finally from the
14 list and hopefully we can finish up quickly and take
15 lunch, if that sounds good. What steps were taken
16 by Braun to collect documents from the files of Mr.
17 Smetana relating to the saving cleaning center
18 project?

19 A. Mr. Sievers talked to him, and that's all I
20 know.

21 Q. Do you know when Mr. Sievers talked to him?

22 A. No.

23 Q. Who did you contact regarding the gathering
24 of documents related to the saving cleaning center

Page 65

1 project?

2 A. At what point in time?

3 Q. Well, you said you had a project or you
4 treated gathering documents as a project.

5 A. Well, this was a new project for me from
6 the beginning on where I started working on this
7 project. At that point in time, because I was new
8 in the company, I gathered all the information I
9 could possibly find. I spoke to the patent
10 department. My spokesperson was Mr. Klauer. I also
11 talked to the quality department.

12 Q. Okay. I think there's some confusion. You
13 understand there's a litigation between or Braun is
14 suing Rayovac or Remington, correct?

15 A. Yes.

16 Q. In connection with that litigation, were
17 you personally tasked with gathering documents
18 related to the safer cleaning center project?

19 A. Yes.

20 Q. And my question, then, is from the start of
21 that project or from the start of the litigation,
22 when you began working on that, until today, who are
23 all of the individuals that you contacted regarding
24 the gathering of documents?

17 (Pages 62 to 65)

Juergen Hoese May 11, 2005

Page 66

1 A. Almost nobody, because -- almost all of the
2 documents which had to do with this project were in
3 my own folders, with the exception of the quality
4 control reports, the CAD data, et cetera.

5 Q. Who did you contact regarding the quality
6 control reports?

7 A. I did not contact anybody, because it
8 didn't make any sense to me to pull test information
9 with regards to testing performed in '99 and 2000 in
10 the context of this litigation.

11 Q. So am I correct that you did not provide
12 the quality control reports to the attorneys?

13 A. Yes.

14 Q. Did you provide the CAD drawings to the
15 attorneys?

16 A. No. Nobody asked me to do that.

17 Q. In terms of contacting people, you said you
18 contacted virtually no one, I believe. Who were the
19 people that you did contact?

20 A. I contacted the person who was in charge of
21 the so-called Messinger files.

22 Q. Who was in charge of the Messinger files?

23 A. We have a department which is called
24 research. Mr. Messinger used to be the head of that

Page 67

1 department, and for that reason those binders were
2 retained in that department, and those binders
3 contain written information.

4 Q. Aside from contacting the research
5 department regarding the Messinger files, did you
6 contact any other individuals?

7 A. I contacted my boss, because there was a
8 video which was created in '97/'98, and which showed
9 the function of one of those function designs,
10 prototypes, but we did not find that video.

11 Q. Okay. Did you contact anyone else?

12 A. No.

13 Q. Were you tasked with gathering documents
14 related to the market research for the shaving
15 cleaning center project?

16 A. No.

17 Q. Were you tasked with finding financial
18 information related to the shaving cleaning center
19 project?

20 A. No.

21 Q. Now asking you not on behalf of yourself
22 personally, but I'm asking you as Braun's
23 representative, what individuals or who are the
24 individuals that Braun contacted, aside from --

Page 68

1 well, who are the individuals that Braun has
2 contacted regarding the gathering of documents
3 related to the shaving cleaning center project?

4 A. I don't know.

5 Q. One last question and then we can break for
6 lunch. Following the filing of this lawsuit, and I
7 don't know if you know exactly when that was, has
8 Braun provided any instruction to its employees
9 regarding the duty to preserve evidence related to
10 the shaving cleaning center project?

11 A. I don't know that.

12 Q. Let me just make sure from the legal mumbo
13 jumbo. Did anyone tell Braun employees that they
14 should keep their documents related to the shaving
15 cleaning center project?

16 A. I was told to do so, and I then transmitted
17 that message to the people that work in my
18 department, and I also told the same thing to the
19 people who work in the research department, because
20 of the Messinger files.

21 Q. Did you communicate this via e-mail or
22 verbally?

23 A. I went there in person and told them.

24 Q. When you told them to keep their documents,

Page 69

1 did you also ask them to give their documents to
2 Braun's lawyers?

3 A. No. I am pretty sure that I am almost the
4 only one who has the entire document files in my
5 possession. So I told my co-workers that if they
6 find anything, they should forward that to me, they
7 should give it to me.

8 Q. Has anyone forwarded anything to you?

9 A. No.

10 Q. And who were the co-workers that you asked
11 to forward information to you?

12 A. Only Mr. Kreutz is still working there, but
13 I have 11 other co-workers who work with me, and the
14 reason why I told all of those co-workers to do this
15 was that we moved our department, and I wanted to
16 make sure that no information was lost.

17 Q. Why don't we do this after lunch. The next
18 question I want to ask you are who are those 11
19 individuals.

20 A. I start reflecting now.

21 VIDEOGRAPHER: Off the record, 12:36 p.m.
22 (Luncheon Recess)
23
24

18 (Pages 66 to 69)

Juergen Hoeseer May 11, 2005

Page 70

AFTERNOON SESSION

VIDEOGRAPHER: Back on the record, 1:55

p.m.

MR. SHIMOTA: Right before we went back on the record, Mr. HOESER wrote a list of the individuals would now work under him. I'd like to mark this -- I've premarked some exhibits at lunch -- and just mark this as Defendant's Exhibit No. 63.

(Document marked as Exhibit 63 for identification)

Q. Does Defendant's Exhibit 63 reflect the 11 individuals who currently work under you?

A. Yes.

Q. Do you know if any of these 11 individuals have provided -- well, let me ask this question. Do all of these 11 individuals perform work related to the shaver cleaning system?

A. No.

Q. None of them do? Oh, I asked you all of them. Who amongst the 11 performed work related to the shaver cleaning system?

A. Mr. Larchead, Mr. Kreutz, and the others just if the company is in need of them.

Q. Is the Mr. Kreutz you mentioned --

Page 72

(Document marked as Exhibit 54 for identification)

Q. I will hand you what I've marked as Defendant's Deposition Exhibit 55, a document bearing the Bates number B001064.

(Document marked as Exhibit 55 for identification)

Q. I hand you a document bearing the Bates number -- I'm going to mark as Defendant's Exhibit No. 56, a document filed as an Exhibit B to the declaration of Dietrich Pahl, which is entitled "R&D Shavers 'Future'."

(Document marked as Exhibit 56 for identification)

Q. I will mark as Defendant's Deposition Exhibit 57, documents bearing the Bates range B3074 to 3076.

(Document marked as Exhibit 57 for identification)

Q. Mark the next a document as Defendant's Deposition Exhibit 58, a document bearing the Bates range B4615 to B4617, and the English translation of that document as Defendant's Deposition Exhibit 59.

Page 71

A. It's on the list.

Q. Do you know if Braun has asked Mr. Larchead to provide documents related to the work on the shaver cleaning system?

A. I don't think so.

Q. I'm going to hand you several documents which I had premarked, and I will get to them in order.

(Document marked as Exhibit 52 for identification)

Q. I'm handing you what I've marked as Defendant's Exhibit 52, which is Braun's Answers to Defendant's Interrogatories.

A. Mr. Braun's?

MR. SHIMOTA: No.

MR. PATTON: The company.

Q. I will hand you what I've marked as Defendant's Deposition Exhibit 53, which bears the Bates label B000861.

(Document marked as Exhibit 53 for identification)

Q. I will hand you what I've marked as Defendant's Deposition Exhibit 54. It is the English translation of B861.

Page 73

(Documents marked as Exhibits 58 and 59 for identification)

Q. Finally, I'd like to mark as Defendant's Deposition Exhibit 61, U.S. patent No. 5,711,328.

(Document marked as Exhibit 61 for identification)

Q. As Defendant's Deposition Exhibit 62, U.S. Patent No. 5,649,556.

(Document marked as Exhibit 62 for identification)

Q. All right. If you could return back to the Notice of Deposition which we talked about earlier, which is Defendant's Deposition Exhibit 49. If I could direct your attention to Topic No. 15.

Are you prepared to testify on behalf of Braun regarding the conception and reduction to practice date for the alleged inventions of the patents in suit identified in Braun's response to interrogatory No. 2 and the evidentiary basis for such dates?

A. Yes.

Q. And I take it, then, that you have also reviewed Braun's response to interrogatory No. 2?

A. This year?

19 (Pages 70 to 73)

Juergen Hoese May 11, 2005

Page 74

1 Q. Yes. That's what I'm talking about. If I
2 can help you, I will direct your attention to --

3 A. This is a document which I've seen for the
4 first time today.

5 Q. Are you familiar with the conception and
6 reduction to practice dates for some of the
7 inventions which are described in these two patents?

8 A. In broad lines.

9 Q. What did you do to prepare yourself to
10 testify regarding the conception and reduction to
11 practice dates?

12 A. I spoke with the two attorneys, and
13 together with the two attorneys I perused the dates
14 which led to the patents.

15 Q. Okay. I don't know if interrogatory No. 2
16 will help you at all. If you can just take the
17 patents, I just want to go through the various
18 claims and the dates we have, and I want to ask you
19 questions about that. If we can start with Claim 1
20 of the '556 patent.

21 A. Which page is it?

22 Q. That would be the last page of it.
23 Interrogatory No. 2 states that "Claim 1 of the '556
24 patent was conceived on or before July 22, '93 and

Page 75

1 reduced to practice on or before July 22, 1993."

2 A. Yes.

3 Q. My question is, what is the evidentiary
4 basis for the assertion of that particular date?

5 A. I was told the dates, because all of this
6 happened prior to my arrival at Braun.

7 Q. Well, do you know of any -- aside from what
8 the lawyers tell you, are you aware of any facts
9 which would corroborate the date of July 22, 1993?

10 A. I know that there is in discovery an
11 invention with those dates.

12 Q. Are you referring to this document, which
13 is the English translation?

14 A. Yes.

15 Q. Have you reviewed this document before?

16 A. Yes.

17 Q. Can you point me to in, I believe it's
18 Exhibit 50 or 51, where there is any discussion of a
19 cartridge with an integrated filter?

20 A. Here in the last paragraph there is talk in
21 this paragraph about the cleaning recipient.

22 MR. SHIMOTA: What did you say?

23 INTERPRETER: In this last paragraph there
24 is talk about the cleaning recipient.

Page 76

1 A. And there is talk about the reserve in
2 liquid, such as a filter.

3 Q. So this is the last paragraph at the bottom
4 that bears the Bates number B001070?

5 A. Yes. But I am going now to read further in
6 this document.

7 Q. Sure.

8 A. Then I would like to refer to the drawing.
9 You see the drawing shows a recipient which contains
10 the liquid. Yes.

11 Q. When you started work in July of 1995, did
12 you see a prototype of a cleaning center?

13 A. Not immediately, but within the course of
14 the first few months.

15 Q. Did that prototype have a removable
16 cartridge which contained fluid and also had a
17 filter?

18 A. This is the prototype, and the lower part
19 of this apparatus, that's removable, and the filter
20 is part of that lower part of this apparatus.

21 Q. Okay. Do you know the word "cartridge"?

22 A. Yes.

23 Q. In Braun's current device there is a
24 cartridge which contains cleaning fluid and has a

Page 77

1 filter, correct?

2 A. Yes.

3 Q. Do you know who had the idea for using a
4 cartridge which contained fluid and had a filter --
5 did you know who had the idea using a cartridge
6 which contained a fluid in the cleaning center?

7 A. The idea existed when I started working
8 there, and I take it that the idea is from Mr.
9 Braun.

10 Q. Circling back, do you see the idea for a
11 cartridge containing fluid -- do you see the idea
12 for a removable cartridge containing fluid with a
13 filter in it described in Defendant's Exhibit 50?

14 A. I would say that that's the case, yes.

15 Q. Okay. Is that what you had pointed me to
16 previously? I'm sorry, that was a bad word. You
17 pointed me to one paragraph on the first page and
18 the figures at the end of the document; is that
19 correct?

20 A. Yes.

21 Q. Okay. Did you see anyplace else in
22 Defendant's Exhibit 50 where there would have been
23 discussion of a removable cartridge?

24 A. If you would like me to, I could read

20 (Pages 74 to 77)

Juergen Hoerster May 11, 2005

Page 78

1 through the document one more time.

2 Q. Well, do you know of any other documents,
3 any other evidence, which would indicate that the
4 idea of a removable cartridge containing cleaning
5 fluid was conceived on or before July 22, 1993?

6 A. I know this drawing.

7 Q. So can you see a removable cartridge in
8 this drawing?

9 A. I wouldn't use the word "cartridge" on this
10 drawing.

11 Q. Why wouldn't you use the word "cartridge"?

12 A. The nomenclature which led to Braun's use
13 of the word "cartridge" is not logical. In German
14 one would call this item a recipient-containing
15 liquid.

16 Q. Are you referring to something of this
17 drawing, when you say a recipient-containing liquid?

18 A. This is just a general comment. In German,
19 it is not cartridge, it is a recipient for a liquid
20 or a liquid container.

21 Q. Okay.

22 A. You wouldn't call it cartridge.

23 Q. So in Braun's current product, the device
24 or the product which you insert and out of the

Page 79

1 cleaning center, that is not called a cartridge?

2 A. I would call this in German a container
3 with liquids, a recipient with liquids.

4 Q. I want to make sure we're clear here. Have
5 you ever used for that device -- have you ever
6 called what is inserted into Braun's current device,
7 have you personally called that a cartridge or do
8 you always call that a recipient carrying liquids?

9 A. We use in the meantime the word
10 "cartridge," because this is a word which became
11 Germanized over time.

12 Q. So "cartridge" is not a term that would be
13 used in German regularly, but it's something that
14 you came to adopt for, I guess, business purposes?

15 A. That's correct.

16 Q. Does looking again at this document, since
17 we have it out, was this one of the documents
18 provided to you by Mr. Schaefer?

19 A. Yes.

20 Q. Did you review this document when you first
21 received it in July of 1995, approximately?

22 A. Yes.

23 MR. PATTON: Jim, just so the record is
24 clear, Exhibit 55 we are looking at?

Page 80

1 MR. SHIMOTA: Yes. Thank you for that.

2 Q. Do you see at the bottom in the lower
3 right-hand corner listed "Braun France SA"?

4 A. Yes.

5 Q. Did you recognize that in approximately
6 July of 1995 when you received this document?

7 A. Yes.

8 Q. Did you ever ask anyone how people in
9 France came to be working on the cleaning center?

10 A. Yes.

11 Q. Who did you ask that?

12 A. I asked my boss, Walter Schaefer, and he
13 told me that this drawing originated in France,
14 because Dr. Pahl, and there was no reference made to
15 a year, but Dr. Pahl was the supervisor of a
16 development group in France, and it was this group
17 or team that offered this drawing upon instruction
18 from Mr. Pahl.

19 Q. Do you recall, approximately, when Mr.
20 Schaefer would have provided you with this
21 information?

22 A. Maybe during the first two months.

23 Q. Did Mr. Schaefer tell you how he learned
24 the information that he had conveyed to you?

Page 81

1 A. No.

2 Q. Do you know who was on the team in France
3 that worked with Dr. Pahl on the cleaning center?

4 A. I know that there were three people on this
5 team, but I don't know the names of those people.

6 Q. How do you know there were three people on
7 the team?

8 A. At that point in time, Mr. Schaefer told me
9 that there were three people working on it, and this
10 time it was in the conversation, during the
11 conversation I had with the lawyers, they also told
12 me that.

13 Q. So you're referring to point one when you
14 talked with Mr. Schaefer at some point in '95, and
15 you're referring also to when you spoke with the
16 lawyers just recently?

17 A. Monday.

18 Q. Okay. Do you know if Braun has attempted
19 to gather documents which would have been retained
20 from the three individuals in France who worked on
21 the cleaning center?

22 A. I don't know that.

23 Q. Can you show me, if you can, anywhere on
24 this document -- I believe there's a blower shown, a

21 (Pages 78 to 81)

Juergen Hoerer May 11, 2005

Page 82

1 fan shown at the bottom of this document; is that
2 correct? Correct me if I'm wrong.

3 A. There are several components on this
4 drawing, which I can recognize very well. First
5 there is a container with the liquid. There is the
6 absorption part, the cradle, the pump, the filter,
7 the filter outlet, the clutch for the pump, the
8 shaver head, power supply.

9 Q. Okay. Was in this original work done by
10 Dr. Pahl included a drawing device?

11 A. Yes.

12 Q. Where is the drawing device?

13 A. It's not so clear on this drawing. It's a
14 fan plus heater.

15 Q. So is there shown anywhere the fan plus the
16 heater in this drawing?

17 A. No.

18 Q. Let's set this document aside. Let's go to
19 '328 patent, interrogatory No. 2. Interrogatory No.
20 2 states that -- do you have the '328 patent in
21 front of you? I'm sorry. This would be the third
22 to last page. Claim 11 provides a lot of -- well,
23 there are several elements, and the last is a
24 drawing device. It states in interrogatory No. 2

Page 83

1 that Claim 11 was conceived on or before November,
2 '92 and reduced to practice on or before November of
3 '92.

4 So my question is what is the evidentiary
5 basis for the date of November, '92?

6 A. It is this part of a presentation.

7 Q. Can you show me Defendant's Exhibit 56
8 where there is shown the drawing device?

9 A. You don't see the dryer on this drawing.
10 It's not recognizable. But it is explained in the
11 comments.

12 Q. What is stated in the comments?

13 A. The functions of the products I explained,
14 and it starts with a shaver in and out, then to pump
15 and filter the liquids, and then dry, to dry.

16 Q. So can you point me to where it is shown in
17 this document the idea of drying with a fan?

18 A. That I cannot read from this document, but
19 this is a picture of the product where you have the
20 drawing over here. This product corresponds to this
21 drawing. And this product certainly existed prior
22 to the point in time where I started working at
23 Braun. This product corresponds 100 percent to this
24 drawing, and the missing parts in the drawing you

Page 84

1 can see them on the picture. Here you see the
2 heater.

3 Q. Can you point me to the heater?

4 A. It's this black part.

5 Q. That's not the shaver then that's inserted?

6 A. No, no, that's not the share. The cradle
7 is here in front.

8 Q. I got you.

9 A. Here is the cradle. This is the heater,
10 and below the heater is the fan. It sucks warm air
11 and blows it onto the shaver.

12 Q. Can you tell me when the device illustrated
13 in Braun 3074 to 3076 was built?

14 A. This device?

15 Q. Yes.

16 A. I don't know. It was before my start at
17 Braun.

18 Q. Aside from the documents we've discussed,
19 is there any other document of which you know which
20 would show the first time when a blower and a heater
21 were used in the cleaning center?

22 A. I don't recall any one which is not on this
23 table.

24 Q. We talked about the presentation, which is

Page 85

1 Defendant's Exhibit 56, the picture of the device,
2 and we also discussed the large schematic, which is
3 Defendant's Exhibit 55. Is there anything else that
4 you can think of sitting here today?

5 A. Yes. We also have Exhibit 58.

6 Q. What is Defendant's Exhibit 58?

7 A. There we talk about the drying process of a
8 shaver with the help of a fan.

9 Q. Is Defendant's Exhibit 58 a document that
10 would have been in the 20 or so -- is Defendant's
11 Exhibit 58 something that was provided to you by Mr.
12 Schaefer in '95?

13 A. I am not 100 percent sure. The second part
14 of this document, there I am 100 percent sure. With
15 the first part of the document, I am not 100 percent
16 sure.

17 Q. Okay. Is the first part of the document,
18 the first memo, something that you reviewed
19 yesterday?

20 A. No. I looked at it today.

21 Q. Do you mean you looked at it -- did you
22 look at it prior to this deposition or during this
23 deposition now?

24 A. Right now.

22 (Pages 82 to 85)

Juergen Hoerster May 11, 2005

Page 86

1 Q. Okay. Have you ever seen this document
2 before, the first one? I'm sorry, we shouldn't have
3 put these together.
4 A. I am not sure.
5 Q. Do you know whether the first document, the
6 memo from, I believe, Mr. Smetana to Dr. Pahl, Dr.
7 Braun and Dr. Jahn, is evidence of the use of a fan
8 and a heater in the cleaning center?
9 A. At least with regard to the fan.
10 Q. When you say "at least with regard to the
11 fan," does it also discuss the use of a heater with
12 the fan?
13 A. No. As far as I can read here, I don't see
14 that.
15 Q. So this document is also -- well, I guess
16 aside from this picture, then, this is the only
17 place where you can actually see the leaves of the
18 heater in the cleaning center in the documents we've
19 reviewed?
20 A. Yes.
21 Q. You said you were definitely familiar with
22 the following document, which, I believe, is from
23 Mr. Stiegler to Mr. -- well, several people. Why do
24 you recall this document?

Page 87

1 A. This document was from Mr. Stiegler to Mr.
2 Schaefer, and Mr. Schaefer was my supervisor, and
3 the content of this document represents one of the
4 main problems we had to solve.
5 Q. What was the main problem or one of the
6 main problems you had to solve with the cleaning
7 center?
8 A. The main problem consisted in the fact that
9 the shaver had to be locked in the cleaning center.
10 The reason for this being the fact that the shaver
11 during the cleaning process becomes very wet, and
12 the shaver being charged with 220/110 respectively
13 volt, it cannot be removed under any circumstances
14 in its wet state.
15 Q. How was that problem solved?
16 A. I'm a good engineer. The problem was
17 solved by not charging the shaver any more with 220
18 volt, but with 12 volts.
19 Q. Once you stepped down the voltage for
20 charging, did you know longer need the mechanical
21 lock?
22 A. From a technical security point of view, it
23 is not a must any more.
24 Q. In the commercial cleaning center

Page 88

1 introduced by Braun, was there an interlock
2 included?
3 A. I would call it a soft lock.
4 Q. In this document, do you know who Mr. ---
5 there's listed a Mr. Kraus with VDE. Do you know
6 who that is?
7 A. Yes.
8 Q. Do you know Mr. Kraus?
9 A. I never met Mr. Kraus personally, in
10 person.
11 Q. Did you know of Mr. Kraus?
12 A. Yes.
13 Q. How did you know of Mr. Kraus?
14 A. From Mr. Stiegler in our approbation
15 department.
16 Q. Did you gain any other information, aside
17 from this document, from Mr. Stiegler regarding Mr.
18 Kraus?
19 A. No.
20 Q. So this is the only time you knew of Mr.
21 Kraus?
22 A. Yes.
23 Q. What is your understanding of this
24 document? Is this document conveying the

Page 89

1 suggestions of VDE to the suggestions Mr. Stiegler
2 received from VDE to various individuals at Braun?
3 A. In fact, those are no suggestions. Those
4 are instructions.
5 Q. So VDE told Braun you need to do this or we
6 will not approve of your device?
7 A. Exactly.
8 Q. Look, again, to the '328 patent, and
9 interrogatory No. 2, it states that Claim 14 of the
10 '328 patent was conceived and reduced to practice on
11 or before November of 1992?
12 A. Could you repeat the question one more
13 time.
14 Q. Sure. What is the evidentiary basis for
15 the statement that Claim 14 of the '328 patent was
16 conceived and reduced to practice on or before
17 November of 1992?
18 A. I have to refer to this document.
19 MR. PATTON: "This document" is exhibit?
20 MR. SHIMOTA: Defendant's Exhibit 56.
21 Q. And Exhibit 55, the schematic?
22 A. Yes.
23 Q. If we could look, then, to Claim 18 of the
24 '328 patent. Interrogatory No. 2 states that Claim

23 (Pages 86 to 89)

Juergen Hoerer May 11, 2005

Page 90

1 18 of the '328 patent was conceived on or before
2 July 22, 1993 and reduced to practice on or before
3 July 22, 1993. My question is, what is the
4 evidentiary basis for that date?

5 A. That date is mentioned on the invention
6 document.

7 Q. So the idea of a bracket to Braun's
8 knowledge was not conceived prior to -- or the
9 earliest date that Braun can point to for the
10 conception of a bracket is Mr. Braun's invention
11 disclosure record? Turn to the front page,
12 Embodiment 10 is the bracket.

13 A. The bracket is the lock.

14 Q. Is that when they were discussing the lock
15 in the memo to Mr. Stiegler, that's what you were
16 referring to as Item 10, the bracket?

17 A. Yes. Ten plus nine.

18 Q. Well, an earlier date, then, July of '93,
19 would be that memo from Mr. Stiegler, correct? That
20 would be in June of '93?

21 A. Yes.

22 Q. Do you know of any date earlier than that
23 June of '93 memo?

24 A. No.

Page 91

1 Q. There's discussion of various dates in
2 which inventions were conceived and reduced to
3 practice. Did any of the activities related to
4 conception and reduction to practice occur in the
5 United States?

6 A. To the best of my knowledge, no.

7 Q. In interrogatory No. 2, there are listed
8 with individuals with knowledge, and that would be
9 Dietrich Pahl, Mr. Gebhard Braun, Wolfgang Vorbeck
10 and Peter Sartorius. My question for you is -- I
11 know who the first three individuals are. Who is
12 Peter Sartorius?

13 A. Sorry. I don't know.

14 MR. SHIMOTA: Why don't we take a break to
15 change the tape.

16 VIDEOGRAPHER: Here ends videotape No. 2.
17 Off the record at 2:57 p.m.

18 (Recess)

19 VIDEOGRAPHER: Here begins videotape No. 3
20 in today's deposition of Juergen Hoerer. Back on
21 the record at 3:05 p.m.

22 BY MR. SHIMOTA:

23 Q. If you would look at this document, I will
24 read off the translation, and I've marked that as

Page 92

1 Defendant's Exhibit 53. Have you ever seen this
2 document before?

3 A. No.

4 Q. You have not seen it before?

5 A. I've seen it on Monday.

6 Q. If you look under point five, it states,
7 "Are you aware of prior art going beyond the details
8 in the invention application of state sources"? In
9 the 30(b)(6) it states you were designated by Braun
10 to testify as to the identity and contents of the
11 enclosures identified in Defendant's Exhibit 53; is
12 that correct?

13 A. Yes, that's correct.

14 Q. Speaking on behalf of Braun, what are or
15 what were the enclosures referenced in point five?

16 A. It has to do with point four in document
17 51, and that relates to point five in document 53.

18 Q. So under point four, there's generally
19 described one U.S. patent and like a shaking beaker
20 for shaving heads; is that correct?

21 A. There are two things. The beaker is the
22 American.

23 Q. Let me try and ask this question. So under
24 point four there is described, one, a shaking beaker

Page 93

1 for shaving heads, and two, U.S. patent No.
2 3,172,416, correct?

3 A. Yes.

4 Q. Is it Braun's position Dr. Pahl attached
5 U.S. patent No. 3,172,416 to Defendant's Exhibit 53?

6 A. I cannot confirm to that.

7 Q. Well, does Braun have a position as to what
8 the enclosures were attached to Defendant's Exhibit
9 53?

10 A. No.

11 Q. Under point 23 in the 30(b)(6), it is
12 listed --

13 A. This one?

14 Q. Yes, exactly. Point 23 states "Any and all
15 states taken by Braun to collect the enclosures
16 identified in B00861." What steps did Braun take to
17 gather the enclosures which are referenced in
18 Defendant's Exhibit 53?

19 A. Exhibit 53 originates from the patent
20 department, and I don't know what steps they
21 undertook.

22 Q. So do you know whether Braun checked the
23 files of Mr. Klauer to see if the enclosures were in
24 Mr. Klauer's files?

24 (Pages 90 to 93)

Juergen Hoeser May 11, 2005

Page 94

1 A. I cannot say that. But if you attach the
2 invention documents together with this document,
3 then you have the enclosures. That's what I assume.

4 Q. Okay. So when you say you assume, you're
5 guessing, essentially, that's what is referred to by
6 the enclosures?

7 A. Yes.

8 Q. I'd like to hand you what's been marked as
9 Defendant's Deposition Exhibit 60, a document
10 bearing the Bates range B002089 to B002095, and it
11 also includes English translations. Let me direct
12 your attention to B002090.

13 (Document marked as Exhibit 60
14 for identification)

15 Q. At the bottom there is described the
16 cleaning operation?

17 A. Yes.

18 Q. In the first two sentences there's
19 generally described the fact that while the shaver
20 is in the basin, its cutters rotate in fluid and
21 that enhances the cleaning operation; is that
22 correct?

23 INTERPRETER: He asked me to repeat the
24 translation.

Page 95

1 A. Either the translation is wrong or the
2 comment is wrong.

3 Q. Let's see, it states in the second sentence
4 in the English translation, "After about ten
5 seconds, the pump starts to pump the cleaning fluid
6 from the exchangeable cartridge into the cleaning
7 tray." And it also states, "This pumping continues
8 throughout the cleaning operation," and then it
9 states, "The moving cutters create a strong movement
10 of the fluid throughout the cleaning operation which
11 in conjunction with the chemical and physical
12 properties of the cleaning fluid results in very
13 thorough cleaning."

14 A. That's correct.

15 Q. Am I correct during the cleaning operation,
16 the cleaning tray is continuously filled with fluid,
17 correct?

18 A. Yes.

19 Q. And the cutters are oscillating in the
20 fluid, correct?

21 A. Correct.

22 Q. Now, am I correct that the oscillation of
23 the cutters in the cleaning fluid places a heavier
24 load on the motor?

Page 96

1 A. This is a question which cannot be answered
2 with yes or no.

3 Q. You're right. That was a bad question.
4 The cutter head oscillates once the fluid has
5 drained in order to shake off excess fluid; is that
6 right?

7 A. I think your translation was wrong.

8 Q. Well, relative to the operation of the
9 cutter heads, just when they are in the air, it
10 takes more power to oscillate the cutting heads when
11 they are in fluid; is that correct?

12 MR. PATTON: I object to the question as
13 being outside the notice, but the witness, of
14 course, may answer if he understands it.

15 A. I understood the question. The answer is,
16 once again, not an easy answer. The fact is that
17 even though we have to oscillate a heavier load, we
18 have less friction.

19 Q. In designing the cleaning center, did you
20 ever consider using a trough that was not
21 continuously filled with fluid during the cleaning
22 operation?

23 A. Yes, and that is done in such a way.

24 Q. When is that done?

Page 97

1 A. We fill the basin, and then we drain the
2 basin many times.

3 Q. So it fills up and then goes up, fills up
4 and then goes down?

5 A. Yes.

6 Q. How many times is the basin filled?

7 A. Three times entirely, and one time only a
8 little bit.

9 Q. Did you ever consider designing the
10 cleaning center such that fluid would be injected
11 into the interior of the shaving head?

12 A. Yes.

13 Q. When did you consider that?

14 A. I don't recall. It was one of those
15 concepts which were in the air.

16 Q. Was that your idea?

17 A. I think so.

18 Q. Would you have recorded that idea in one of
19 your laboratory notebooks?

20 A. I can't recall.

21 Q. Do you know why that particular idea was
22 not pursued or why that particular idea of yours was
23 not pursued?

24 A. I can only give you several reasons.

25 (Pages 94 to 97)

Juergen Hoerster May 11, 2005

Page 98

1 Q. If you would, please.

2 A. One of the reasons being that we did not
3 want to give up the standard of the cutting
4 elements. Another reason is the improved cleaning
5 performance.

6 Q. For the first reason you gave, am I correct
7 that you wanted to make a device that you could use
8 for all different types of shavers in future
9 generations?

10 A. No.

11 Q. Well, could you explain further what you
12 mean by standardization of the cutting elements?

13 A. Yes. We did not want to worsen the quality
14 of the shaver because of the cleaning center.

15 Q. With your idea regarding injection, how
16 would you have worsened the quality of the shaver or
17 why was that the perception?

18 A. At that point this time, that was only an
19 assumption. But if, for example, you perforate the
20 head of the shaver, then on those perforation
21 points, dirt is also coming out of those holes.

22 Q. I understand. Did you communicate your
23 idea regarding the injection of fluid into the
24 shaving head to any other individuals at Braun?

Page 99

1 A. I don't want to respond to that question,
2 because that has to do with the current development.

3 Q. Is this something that you're working on, a
4 product that you're working on currently that you're
5 thinking of?

6 MR. PATTON: You can answer.

7 A. Yes.

8 MR. PATTON: There's a protective order in
9 place.

10 A. So there is an application related to the
11 invention information where I am the author of, and
12 in a project, we are examining this. So it was in
13 that project team that we discuss about this.

14 Q. Okay. Would there be any documents related
15 to this project that you're working on?

16 A. Of course.

17 Q. Do you know if those documents have been
18 provided to the attorneys?

19 A. I don't think so.

20 Q. Let me ask you this. You're aware that
21 Remington is being sued for a cleaning system?

22 A. Yes.

23 Q. Have you or has anyone in your group ever
24 analyzed the Remington device?

Page 100

1 MR. PATTON: I object to the question as
2 outside the notice. If you understand the question,
3 you can answer.

4 A. Yes.

5 Q. And what have you done to analyze the
6 Rayovac device?

7 MR. PATTON: Same objection.

8 A. I would describe it in the following way.
9 We used the general way of doing this type of work.
10 The analysis was performed mainly by our laboratory.

11 Q. Who in your laboratory performed the
12 analysis of the Rayovac device?

13 A. Mr. Steghaus.

14 Q. Would you spell that, please?

15 A. S-t-e-g, and house.

16 Q. h-a-u-s.

17 A. Right.

18 Q. Do you know if Mr. Steghaus provided his
19 analysis of the Remington device to Braun's lawyers?

20 A. I don't know.

21 Q. Have you seen his analysis?

22 A. Yes.

23 Q. Does this analysis taken a written form?

24 A. Yes.

Page 101

1 Q. How long was this document, approximately?

2 A. Four to five pages.

3 Q. Do you know when this document was
4 authored, approximately?

5 A. Immediately after launching the product.

6 Q. After Remington launched their product?

7 A. Yes.

8 Q. Why was Remington's product analyzed?

9 A. It's a standard procedure within Braun to
10 analyze or review all apparatus which is coming from
11 other companies.

12 Q. So it's standard procedure for Braun to
13 look at what the competition is doing?

14 A. Yes.

15 Q. What I'm going to do next is go through
16 your laboratory notebook.

17 MR. SHIMOTA: I'd like to mark as
18 Defendant's Deposition Exhibit 64 a document bearing
19 the Bates range B6737 to B7102.

20 (Document marked as Exhibit 64
21 for identification)

22 MR. SHIMOTA: And I will mark as
23 Defendant's Deposition Exhibit 65 Rayovac's
24 translation, English translation of the same

26 (Pages 98 to 101)

Juergen Hoesser May 11, 2005

Page 102

1 document.

2 (Document marked as Exhibit 65
3 for identification)

4 Q. I will ask you first if you generally
5 recognize Rayovac Deposition Exhibit 64?

6 A. Well, 64 I recognize, because it bears my
7 handwriting. If 65 is correct, I can't tell.

8 Q. 65, I will represent to you, is that's our
9 translation. When I ask you questions, feel free to
10 refer to your German original.

11 A. Okay. And the figures are corresponding?
12 Okay.

13 Q. The figures won't show up in the English.
14 So in the originals, you have to refer to the
15 figures there.

16 Turn first to B006971. Can you read to me
17 this document?

18 A. In German?

19 Q. Well, if you can read it in German, and
20 then have it translated in English.

21 A. These are memos I took for myself with
22 regards to a conversation which I had with Mr.
23 Klauer and Dr. Hoegler. The object of the
24 conversation is the invention information, and

Page 103

1 starting with the invention document information
2 "Pahl," and then it continues with other invention
3 application or patent applications by myself.

4 Q. If you could look to the top where it says
5 start with 05818, 38, 39 and 40 you have written
6 next to it, "Braun/Pahl"; is that correct?

7 A. Yes.

8 Q. Why did you write "Braun/Pahl" next to
9 those numbers?

10 A. Because Braun was the designer and Pahl the
11 manager, and my contact at that point in time was
12 still Mr. Pahl, because he was still with Braun,
13 worked for Braun, but not in his former function.

14 Q. So did you meet with Dr. Pahl fairly often
15 regarding the cleaning center project?

16 A. In fact, not so often, but he was always
17 interested.

18 Q. At this meeting in December of 1997, what
19 did you discuss with Mr. Klauer and Dr. Hoegler
20 regarding the four patent numbers at top?

21 A. I can only assume what you were talking
22 about, because at that point in time I am sure that
23 if we were talking about patents, that we wanted to
24 make sure that all the necessary steps were covered

Page 104

1 in order to secure the state of protection.

2 Q. Do you recall what were any of the steps
3 that you felt that needed to be taken?

4 A. No.

5 Q. Had you ever discussed these patents, the
6 05818 to 05840, previously with Mr. Klauer?

7 A. Certainly.

8 Q. On what occasions would you have discussed
9 them with Mr. Klauer?

10 A. The procedure we had in those days was when
11 a new patent application was made, Mr. Klauer was
12 compiling all the relevant patents which were
13 already in existence.

14 Q. Would Mr. Klauer come to you to find
15 patents that were already in existence?

16 A. No. It was the other way around. Because
17 if I want to author an invention, then I have to
18 refer to the state of the art.

19 Q. And Mr. Klauer would provide you with what
20 was the state of the art?

21 A. For example.

22 Q. I understand. So when you were developing
23 new things with respect to the cleaning center, Mr.
24 Klauer would have conveyed to you the work done in

Page 105

1 these patent applications?

2 A. Yes.

3 Q. Did he ever explain to you what those
4 patent applications represented?

5 A. In broad lines.

6 Q. Did he explain to you that those patent
7 applications represented the work of Dr. Pahl and
8 Mr. Braun?

9 A. Yes.

10 Q. Did Mr. Klauer provide you with the patent
11 applications, the 5818 to 5840?

12 A. Certainly. But I don't read such things.
13 I don't understand them.

14 Q. That's the way everyone feels. Why was Dr.
15 Hoegler involved in the meeting in December of 1997?

16 A. Dr. Hoegler is the successor of Dr. Pahl,
17 and my supervisor, boss' boss.

18 Q. Your boss' boss, two levels above you?

19 A. Yes.

20 Q. At the time Mr. Schaefer was your boss, and
21 then Dr. Hoegler was above Mr. Schaefer?

22 A. Yes.

23 Q. Is that still the case? Is it Mr. Schaefer
24 and Dr. Hoegler or is it different now?

27 (Pages 102 to 105)

Juergen Hoester May 11, 2005

Page 106

1 A. No. It's different.
 2 Q. Okay. Is Dr. Hoegler still at Braun?
 3 A. Yes.
 4 Q. In what capacity does he work now?
 5 A. The same.
 6 Q. So he's still your boss' boss?
 7 A. No. He's my boss. I'm promoted.
 8 Q. So you step in Mr. Schaefer's shoes?
 9 A. Exactly.
 10 Q. I understand. Do you know if anyone asked
 11 Dr. Hoegler to gather any documents he had related
 12 to the shaver cleaning project?
 13 A. I don't know if the lawyers told him to do
 14 so, but I asked him, and I said that to you before.
 15 I asked him because of that video.
 16 Q. That's the boss you talked with?
 17 A. Yes.
 18 Q. Would there have been someone named Metzler
 19 who would have made this video? Does that name ring
 20 a bell to you?
 21 A. Yes.
 22 Q. Is Mr. Metzler still at the company?
 23 A. No.
 24 Q. Was he someone that was brought in from

Page 107

1 outside of Braun?
 2 A. No. He is a colleague responsible for the
 3 video room.
 4 Q. Do you know who Mr. Metzler's successor
 5 was?
 6 A. There is no successor.
 7 Q. So is there no longer a video room at
 8 Braun?
 9 A. Video is so simpler right now, that
 10 everybody can make videos. So we stopped having
 11 this position.
 12 Q. Okay. I understand. When you had meetings
 13 related to patents with Mr. Klauer, would you
 14 exchange written information? Let me be more
 15 specific. That's a bad question.
 16 When you had meetings with Mr. Klauer,
 17 aside from actual patent applications and possibly
 18 prior art, did he provide you with any other written
 19 documents?
 20 A. Mr. Klauer was a very informal man, and it
 21 was very rarely the case that he would circulate
 22 documents. When I started my work in 1995, I
 23 received some binders from him that had to do, in
 24 general, with shavers and the cleaning process of

Page 108

1 shavers, and this led me to the Messinger files.
 2 Q. When you received the binders related to
 3 general information for cleaning shavers, do you
 4 still have that binder?
 5 A. That binder is in the possession of Mr.
 6 Klauer, and the content was not relevant for
 7 cleaning centers.
 8 Q. Why do you say it wasn't relevant for the
 9 cleaning center?
 10 A. Because the major part consisted in
 11 complaint letters from customers that said the
 12 shaver is not user friendly, is not easy to clean
 13 such things. In fact, you could call it suggestions
 14 from clients.
 15 Q. Okay. Was it suggestions in general saying
 16 that cleaning was difficult or was it suggestions of
 17 how to improve the process?
 18 A. Both elements apply. For example, there
 19 are people who sent in a drawing where they invented
 20 or they came up with a double brush, things like
 21 that, or a toothbrush.
 22 Q. These would have been people from within
 23 Braun or third parties or both?
 24 A. Mostly third parties.

Page 109

1 Q. When was the last time you saw this binder
 2 of Mr. Klauer's?
 3 A. Well, this binder was really not that
 4 interesting. There was some amusing facts in this
 5 binder, but I looked through this binder, and this
 6 must have been in the end of '95, the beginning of
 7 '96, and then I put the binder on the shelf.
 8 Q. So you kept the binder for yourself, did
 9 you not give it back?
 10 A. No. I gave it back.
 11 Q. Did you ever have a meeting with both
 12 yourself, Mr. Klauer and Dr. Pahl?
 13 A. No.
 14 Q. In the materials that were provided to you
 15 by Mr. Klauer -- well, in any of the materials
 16 provided to you by Mr. Klauer, were there included
 17 documents relating to work on the cleaning center
 18 prior to your arrival at Braun?
 19 A. Only the invention of Braun/Pahl.
 20 Q. You mentioned that you at some point in
 21 time went looking for the files of Mr. Messinger?
 22 A. Yes.
 23 Q. If I could direct your attention to -- you
 24 can look in your German original. If you could look

28 (Pages 106 to 109)

Juergen Hoesser May 11, 2005

Page 110

1 to B6740, the second line.

2 A. Okay.

3 Q. Would that have been approximately when you
4 would have been looking for the file of Mr.
5 Messinger?

6 A. Yes.

7 Q. And why were you looking for Mr.
8 Messinger's file?

9 A. I would say that at that point in time I
10 was still very interested in learning more about
11 Braun, the company Braun in itself, and Mr.
12 Messinger was kind of legend, a hero. So I did not
13 only look at his cleaning procedures, but I also
14 looked at other things.

15 Q. What, from Mr. Messinger's files, what
16 cleaning procedures did you learn of?

17 A. The Messinger files were clear when it came
18 to the invention for Mr. Messinger himself, and his
19 invention consisted of a type of scraper where he
20 scrapes the dirt off the cutter block.

21 Q. Did Mr. Messinger also catalog any work
22 related to cleaning shavers with liquid fluid?

23 A. Yes.

24 Q. Do you recall what was described, what

Page 111

1 cleaning processes with liquid?

2 A. Essentially the cleaning of the shavers
3 with water. He concentrated on that. That was his
4 focus. And he collected very good details about
5 shaver cleaning procedures in general.

6 Q. What details did he collect about shaver
7 cleaning procedures in general?

8 A. For example, the composition of dirt. How
9 customers perceive cleaning, and such things.

10 Q. Did you use any of the information in Mr.
11 Messinger's files when you were performing your work
12 on developing the cleaning center?

13 A. Only as to support my argumentation.

14 MR. SHIMOTA: How are we doing on time for
15 you?

16 MR. PATTON: If we could wind up in the
17 next ten minutes, it will be helpful.

18 Q. We will go back to your notebooks tomorrow.
19 I promise you we will get done with those. Let me
20 ask you a few questions outside of that.

21 In the current iteration -- in the most
22 recent version of Braun's cleaner shaving system, is
23 there included a fan or an impeller?

24 A. No.

Page 112

1 Q. How is the shaver dried in the most recent
2 version of the shaver cleaning system?

3 A. There are two methods. The first one is
4 inductive, and the second one is passive.

5 Q. Can you explain to me what you mean by
6 "passive"?

7 A. "Passive" means in this context that we
8 have a very open system where alcohol can evaporate
9 very quickly.

10 Q. So am I correct that "passive" means
11 essentially air drying or drip drying?

12 A. Yes.

13 Q. Induction heating, is that done through, I
14 guess, a coil which is heated up by application of
15 electric current?

16 A. The cutting parts are heated using
17 inductive energy.

18 Q. I guess there's the two methods of drying
19 now. Are the two methods employed in the same
20 device or does certain devices employ one method and
21 other devices employ the latter?

22 A. There are, in fact, three methods on the
23 market; the one with the fan, the inductive method,
24 and the passive method. The three methods are used

Page 113

1 for very different types of devices.

2 Q. What different types of devices are they
3 used for?

4 A. Seen from which perspective?

5 Q. When you say "different types of devices,"
6 are you talking about from the consumers'
7 perspective or from Braun's perspective?

8 A. Both. We have an old apparatus. This old
9 apparatus is still on the market. We do have a new
10 top line device, which uses inductive drying, and we
11 do have a mid-price device, that uses passive heat.

12 Q. The device with the fan, that is the lowest
13 price device, and the device with passive drying is
14 the mid-priced device, and the induction heating is
15 the high-end device; is that correct?

16 A. No. The device with the fan is the former
17 top line. The price is not lower for the device
18 with passive drying. So it's a parallel.

19 Q. Why was the decision made to, I guess,
20 pursue alternatives to using the fan for drying the
21 shaver head?

22 A. There are several reasons for that. The
23 first reason is the building space. The second
24 reason is the noise. And the third reason is that

29 (Pages 110 to 113)

Juergen Hoeser May 11, 2005

Page 114

1 if I use the inductive heater, then I can
 2 simultaneously perform different tasks.
 3 MR. SHIMOTA: I will tell you what, because
 4 I know you have to go, why don't I finish up there.
 5 MR. PATTON: Do you want to start again at
 6 eight o'clock?
 7 MR. SHIMOTA: Yes.
 8 VIDEOGRAPHER: Off the record, 4:13 p.m.
 9 (Whereupon the deposition
 10 suspended at 4:13 p.m.)
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Page 116

CERTIFICATE

1
 2 Commonwealth of Massachusetts
 3 Suffolk, ss.
 4
 5 I, Michael D. O'Connor, Registered Professional
 6 Reporter and Notary Public in and for the
 7 Commonwealth of Massachusetts, do hereby certify
 8 that JUERGEN HOESER, the witness whose deposition is
 9 hereinbefore set forth, was duly sworn by me and
 10 that such deposition is a true record of the
 11 testimony given by the witness.
 12 I further certify that I am neither related to
 13 or employed by any of the parties in or counsel to
 14 this action, nor am I financially interested in the
 15 outcome of this action.
 16 In witness whereof, I have hereunto set my hand
 17 and seal this 11th day of May, 2005.
 18
 19
 20 Notary Public
 21
 22
 23 My commission expires
 24 November 7, 2008

Page 115

CERTIFICATE

1
 2 I, JUERGEN HOESER, do hereby certify
 3 that I have read the foregoing transcript of my
 4 testimony, and further certify that it is a true and
 5 accurate record of my testimony (with the exception
 6 of the corrections listed below):
 7 Page Line Correction.
 8
 9
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 11
 12
 13
 14
 15
 16
 17 —
 18
 19 Signed under the pains and penalties of perjury
 20 this day of , 2005.
 21
 22 JUERGEN HOESER
 23
 24

30 (Pages 114 to 116)